

***A REGULAR MEETING OF THE FAUQUIER COUNTY BOARD OF SUPERVISORS
WAS HELD DECEMBER 14, 2006 AT 10:00 A.M. IN WARRENTON, VIRGINIA***

P R E S E N T Mr. Raymond E. Graham, Chairman; Mr. Harry F. Atherton, Vice-Chairman;
Mr. William G. Downey; Mr. Richard W. Robison; Mr. Chester W. Stribling;
Mr. Paul S. McCulla, County Administrator; Mr. Kevin Burke, County
Attorney

A B S E N T None

FAUQUIER COUNTY EMPLOYEE SERVICE AWARDS PRORAM

The Board of Supervisors attended the Fauquier County Employee Service Awards Program.

AGENDA REVIEW

The Board of Supervisors reviewed the agenda.

VIRGINIA DEPARTMENT OF TRANSPORTATION (VDOT) PROJECT STATUS UPDATE

J. David Cubbage, Assistant Resident Engineer of the VDOT Warrenton Residency Office, briefed the Board of Supervisors on the status of specific projects within Board members' Magisterial Districts.

REVIEW OF NEW BALTIMORE SERVICE DISTRICT PLAN

Frederick P.D. Carr, Director of Community Development reviewed proposed refinements to the New Baltimore Service District Plan, including: proposed and limited changes to land use designations for business categories only; service district boundaries for the limits of public sewer and water service; and more detailed recommendations regarding the transportation network and access.

FY 2006 COMPREHENSIVE ANNUAL FINANCIAL REPORT

Vivian McGettigan, Finance Director, introduced John Montoro, representing the independent certified public accounting firm of Cherry, Bekaert & Holland, L.L.P, who presented a summary of the annual audit of Fauquier County Government and School Division for Fiscal Year 2006.

WORK SESSION TO DISCUSS THE USE OF FISCAL YEAR 2006 FUND BALANCE AND DECALS

Bryan Tippie, Budget Director, discussed issues related to use of the FY 2006 Fund Balance and summarized various projects, including the impact of eliminating the automobile sticker.

PUBLIC SAFETY SPACE NEEDS ASSESSMENT

Anthony I. Hooper, Deputy County Administrator, introduced Allen Morris of Teng & Associates, who presented an overview of the facility needs assessment and three conceptual options to provide office and parking space for the Public Safety Program, including the Sheriff's Office, the Joint Communications Center, the Fire and Rescue Department, and the Magistrate's Office.

A WORK SESSION BY THE PIEDMONT ENVIRONMENTAL COUNCIL TO DISCUSS THE PROPOSED DOMINION VIRGINIA POWER 500 KILOVOLT ELECTRIC TRANSMISSION LINE

Christopher Miller, President of the Piedmont Environmental Council, presented information related to the impact of a 500 kV electric transmission line that would cross through Fauquier County, which is proposed by Dominion Virginia Power.

A CLOSED SESSION TO CONSULT WITH LEGAL COUNSEL REGARDING SPECIFIC LEGAL MATTERS REQUIRING THE PROVISION OF LEGAL COUNSEL RELATED TO THE DOMINION 500KV POWER LINE PROPOSAL PURSUANT TO SECTION 2.2-3711(A)(7) AND TO DISCUSS PENDING LITIGATION RELATED TO A PERSONNEL MATTER PURSUANT TO SECTIONS 2.2-3711A(1) AND A(2)

Mr. Graham moved to go into a closed meeting, pursuant to §2.2-3711(A)(7) of the Code of Virginia, to discuss specific legal matters requiring the advice of legal counsel relating to the Dominion Virginia Power 500-kV power line proposal, and pursuant to §2.2-3711(A)(1) and (A)(2), to discuss pending litigation related to a personnel matter. Mr. Atherton seconded, and the vote for the motion was unanimous as follows:

<i>Ayes:</i>	<i>Mr. Raymond E. Graham; Mr. Harry F. Atherton; Mr. William G. Downey; Mr. Richard W. Robison; Mr. Chester W. Stribling</i>
<i>Nays:</i>	<i>None</i>
<i>Absent During Vote:</i>	<i>None</i>
<i>Abstention:</i>	<i>None</i>

Upon reconvening from the closed meeting, Mr. Graham moved, without objection, to adopt the following certification.

CERTIFICATION OF CLOSED MEETING

WHEREAS, the Fauquier County Board of Supervisors has convened a closed meeting on this date pursuant to an affirmative recorded vote and in accordance with the provision of the Virginia Freedom of Information Act; and

WHEREAS, §2.2-3712.D of the Code of Virginia requires a certification by this Board of Supervisors that such closed meeting was conducted in conformity with Virginia Law; now, therefore, be it

RESOLVED this 14th day of December 2006, That the Fauquier County Board of Supervisors certifies that, to the best of each member's knowledge (i) only public business matters lawfully exempted from open meeting requirements by Virginia law were discussed in the closed meeting to which this certification resolution applies, and (ii) only such public business matters as were identified in the motion convening the closed meeting were heard, discussed or considered by the Fauquier County Board of Supervisors.

AWARD PRESENTATION FROM THE FAUQUIER COUNTY HUMAN RIGHTS COMMITTEE TO THE FAUQUIER-TIMES DEMOCRAT

The Board of Supervisors attended an award presentation from the Fauquier County Human Rights Committee to the Fauquier-Times Democrat.

The meeting was reconvened in Regular Session at 6:30 p.m.

INVOCATION

Mr. Atherton offered the invocation.

PLEDGE OF ALLEGIANCE

Mr. Hank Day led the pledge of allegiance.

ADOPTION OF THE AGENDA

Mr. Atherton moved to adopt the agenda, with the following changes. Mr. Downey seconded, and the vote for the motion was unanimous as follows:

- Remove Consent Agenda item #6. r., A Resolution Authorizing the Chairman of the Board of Supervisors to Execute a Letter Evidencing the Board of Supervisors' Support for the Continued Location of an Expanded United States Post Office in Downtown Warrenton, and renumber subsequent agenda items.

- Add new Consent Agenda item #6. t., A Resolution to Request the Planning Commission to Amend the Comprehensive Plan to Designate a Rural Health Remediation District Located on the East Side of Route 17 Near its Intersection with Ritchie Road to Include the Referenced PINs (Cedar Run District).
- Remove Public Hearing item #27 regarding Comprehensive Plant Amendment – New Baltimore Service District, and Public Hearing item #26 regarding Elimination of County Decals, and add as new Public Hearing items #18 and #19; then renumber subsequent agenda items.

Ayes: **Mr. Raymond E. Graham; Mr. Harry F. Atherton; Mr. William G. Downey; Mr. Richard W. Robison; Mr. Chester W. Stribling**

Nays: **None**

Absent During Vote: **None**

Abstention: **None**

CITIZENS' TIME

- Daniel Lowe, Scott District, expressed concern about restrictions in the proposed Zoning Ordinance text amendment relating to home occupations, specifically regarding religious services and home-based schools.
- Linda Dick, Center District, spoke in favor of allowing more flexible provisions for direct sales businesses under the proposed Zoning Ordinance text amendment relating to home occupations.
- Ralph Griffith, Cedar Run District, spoke in support of providing more stringent regulations under the proposed Zoning Ordinance text amendment relating to home occupations, specifically regarding automotive repair and construction businesses that store inoperable vehicles, scrap parts and equipment, construction debris and hazardous materials on residential property.
- Bob Goessman, Cedar Run District, spoke in opposition to fees and a “Vint Hill transportation proffer” that has been imposed in order for him to obtain building permits to complete his unfinished basement.

PROCLAMATIONS AND RECOGNITIONS

- Mr. Atherton presented the Virginia Association of Counties 2006 Achievement Award for Fauquier County Purchase of Development Rights Program to Ray Pickering, Director of the Agricultural Development Office.

CONSENT AGENDA

Mr. Atherton moved to adopt the following consent agenda items. Mr. Downey seconded, and the vote for the motion was unanimous as follows:

Ayes: Mr. Raymond E. Graham; Mr. Harry Atherton; Mr. William G. Downey; Mr. Richard W. Robison; Mr. Chester W. Stribling
Nays: None
Absent During Vote: None
Abstention: None

Approval of the Minutes for the November 9, 2006 Regular Meeting of the Fauquier County Board of Supervisors

A Resolution Opposing the 500-kV Power Line Proposed by Dominion and Allegheny Power and the Federal Designation Requested for this Line

RESOLUTION

A RESOLUTION OPPOSING THE 500-KV POWER LINE PROPOSED BY DOMINION AND ALLEGHENY POWER AND THE FEDERAL DESIGNATION REQUESTED FOR THIS LINE

WHEREAS, Dominion Virginia Power (Dominion) and Allegheny Power have proposed to build a five-hundred kilovolt electric transmission line connecting the Mount Storm power station in West Virginia with the Loudoun County substation in Northern Virginia; and

WHEREAS, Dominion has identified a Study Area located in parts of Northern Virginia for the purpose of studying possible routes for the proposed transmission line; and

WHEREAS, The US Department of Energy released the 2006 National Electric Transmission Congestion Study without consulting Virginia, notwithstanding a mandate from Congress, within the Energy Policy Act of 2005, that directs the Secretary of Energy to conduct a study of electric transmission congestion “in consultation with affected States”; and

WHEREAS, the 2006 National Electric Transmission Congestion Study calls for consultation with local “stakeholders” before a decision is made by the Department of Energy on National Interest Electric Transmission Corridor (NIET Corridor) designation; and

WHEREAS, the proposal released by Allegheny and Dominion Power would bypass and undermine Federal governmental and historic protections, including the: National Environmental Policy Act, American Farm and Ranch Protection Act, United States National Trails System Act

of 1968, The National Park System, National Historic Preservation Act of 1966, Federal Water Pollution Control Act; and

WHEREAS, this proposal would deface one of the most historic and protected landscapes in America, with over 48,000 acres under easement, 17 historic sites on Virginia and National Registers, 6 existing historic districts, at least 11 potential/proposed historic districts, one National Historic Landmark, 13 miles of Appalachian Trail, 83 miles of scenic byway, and 7 Civil War Battlefields; and

WHEREAS, State natural and historic protections could be bypassed and undermined by this process, including the: Open Space Land Act, the Conservation Easement Act, Chesapeake Bay Preservation Act, Virginia's policies on transmission siting as implemented by the State Corporation Commission, The Virginia State Park System (Sky Meadows State Park), Virginia Agricultural and Forested Districts, the Virginia Department of Historic Resources, Model Purchase of Development Rights Program for Virginia, State Scenic Byways Program, the State Scenic Rivers Act, and Virginia Land Conservation Incentives Act of 1999; and

WHEREAS, the power line proposal would do considerable harm to Fauquier County's Comprehensive Plan, which places a high value on agriculture, rural character, scenic viewsheds, tourism and environmental, historic and cultural resources; and

WHEREAS, the power line proposal would undo open-space and conservation easements in Fauquier County which were entrusted to Virginia in exchange for Federal and State tax benefits; and

WHEREAS, since sensible national energy policy must foster an optimal mix of deliverable power from diverse sources, the Board of Supervisors does not believe this line will enhance electric reliability or security; and

WHEREAS, the National Environmental Policy Act mandates that an environmental impact Statement (EIS) be prepared in advance of undertaking a 'major Federal action significantly affecting the human environment so that alternatives to the action can be understood and evaluated'; and

WHEREAS, a programmatic EIS is being conducted for transmission corridors proposed for eleven western United States, but no such study has been undertaken or is scheduled for the transmission corridor proposed through Virginia; and

WHEREAS, this power line has not been proven necessary; now, therefore, be it

RESOLVED by the Fauquier County Board of Supervisors this 14th day of December 2006, That the Board of Supervisors does hereby oppose the NIET Corridor designation requested by Dominion and Allegheny Power, and any future designation of NIET Corridors without consultation with Virginia, examination of alternatives, and the prior completion of a Programmatic Environmental Impact Statement; and, be it

RESOLVED FURTHER, That the Fauquier County Board of Supervisors does hereby oppose the approval of this line by the Virginia State Corporation Commission; and be it

RESOLVED FINALLY, That the Fauquier County Board of Supervisors extends its thanks to Representative Frank Wolf, Senator John Warner, and the Honorable Governor Timothy M. Kaine for their leadership in pressing the industry and Department of Energy to consult with the Commonwealth of Virginia, as well as do a full environmental review and consideration of alternatives before proceeding further with NIET Corridor designation.

A Resolution to Authorize the Social Services Board and the Staff of the Department of Social Services to Support the Legislative Positions of the Virginia League of Social Services Executives

RESOLUTION

A RESOLUTION TO AUTHORIZE THE SOCIAL SERVICES BOARD AND THE STAFF OF THE DEPARTMENT OF SOCIAL SERVICES TO SUPPORT THE LEGISLATIVE POSITIONS OF THE VIRGINIA LEAGUE OF SOCIAL SERVICES EXECUTIVES

WHEREAS, the Virginia League of Social Services Executives (VLSSE) is a non-profit, non-partisan organization representing the interests of local Social Services Departments and their clients; and

WHEREAS, VLSSE annually prepares a legislative agenda to advocate for legislative and budgetary action with the Virginia General Assembly; and

WHEREAS, upon examination, the VLSSE legislative agenda fairly represents the interests of Fauquier County; now, therefore, be it

RESOLVED by the Fauquier County Board of Supervisors this 14th day of December 2006, That members of the Fauquier County Social Services Board and the staff of the Fauquier County Department of Social Services be, and are hereby, authorized to advocate for the adoption of legislation by the 2007 General Assembly consistent with the legislative agenda of the Virginia League of Social Services Executives.

A Resolution to Approve Donation of Funds to the Fauquier SPCA, Inc., for the Sale of Animal Friendly License Plates

RESOLUTION

A RESOLUTION TO APPROVE DONATION OF FUNDS TO THE FAUQUIER SPCA, INC., FOR THE SALE OF ANIMAL FRIENDLY LICENSE PLATES

WHEREAS, the Department of Motor Vehicles sells Animal Friendly license plates as authorized by Section 46.2-749 of the Code of Virginia (1950), as amended, as part of its special license plate program; and

WHEREAS, a portion of the funds from the sale of the license plates are set aside in a special fund for distribution to localities to be used in support of sterilization programs for dogs and cats; and

WHEREAS, for Fiscal Year 2006, Fauquier County is entitled to the sum of \$2,220.00 from the sale of Animal Friendly license plates; and

WHEREAS, Fauquier County does not have a sterilization program, however, statute provides that the County may make the funds available to a local, private, non-profit organization which supports the purposes of the program; and

WHEREAS, the Fauquier SPCA, Inc., is a local, private, non-profit organization which has a sterilization program for dogs and cats and which has affirmed that funds donated will be used by that organization for the purposes of that program in accordance with Virginia Code; now, therefore, be it

RESOLVED by the Fauquier County Board of Supervisors this 14th day of December 2006, That, upon receipt from the Department of Motor Vehicles, the sum of \$2,220.00 due to Fauquier County based on the sale of Animal Friendly license plates, as authorized by Section 46.2-749 of the Code of Virginia (1950), as amended, be, and is hereby, appropriated for donation to the Fauquier SPCA, Inc., for the exclusive use by that organization for the sterilization of dogs and cats.

A Resolution to Renew the Cooperative Fishery Management Agreement Between Fauquier County and the Virginia Department of Game and Inland Fisheries

RESOLUTION

A RESOLUTION TO RENEW THE COOPERATIVE FISHERY MANAGEMENT AGREEMENT BETWEEN FAUQUIER COUNTY AND THE VIRGINIA DEPARTMENT OF GAME AND INLAND FISHERIES

WHEREAS, Parks and Recreation wishes to maintain safe habitat and good fish population in Germantown Lake and in the Northern and Central Fauquier Sports Complex ponds; and

WHEREAS, the Cooperative Fishery Management Agreement between Fauquier County and the Virginia Department of Game and Inland Fisheries through surveys and restocking help the County manage fish habitat and population; and

WHEREAS, the services provided under this Agreement have saved the County over \$10,000 in survey and restocking costs; and

WHEREAS, the Agreement, which expired on November 1, 2006, must be renewed for a period of ten (10) years, from January 1, 2007 through January 1, 2017, in order that Fauquier County can continue to receive the benefits provided by the Virginia Department of Game and Inland Fisheries; now, therefore, be it

RESOLVED, by the Fauquier County Board of Supervisors this 14th day of December 2006, That the Cooperative Fishery Management Agreement between the County of Fauquier and the Virginia Department of Game and Inland Fisheries be, and is hereby, renewed to include Germantown Lake and the Northern and Central Fauquier Sports Complex ponds.

A Resolution to Execute a Cooperative Agreement Between the County of Fauquier and the Virginia Department of Game and Inland Fisheries to Manage and Operate Lake Brittle

RESOLUTION

A RESOLUTION TO EXECUTE THE COOPERATIVE AGREEMENT BETWEEN THE COUNTY OF FAUQUIER AND THE VIRGINIA DEPARTMENT OF GAME AND INLAND FISHERIES TO MANAGE AND OPERATE LAKE BRITTLE

WHEREAS, Fauquier County has operated Lake Brittle under a Concession Agreement with the Commonwealth of Virginia (Virginia Department of Game and Inland Fisheries) since 2002; and

WHEREAS, the Virginia Department of Game and Inland Fisheries and Fauquier County wish to improve the overall facility and management of Lake Brittle; and

WHEREAS, the Virginia Department of Game and Inland Fisheries and Fauquier County are desirous of an Agreement for the purpose of cooperatively improving and operating the Lake Brittle property; and

WHEREAS, the County is desirous of replacing the Concession Agreement with a longer term, more comprehensive twenty-five (25) year Cooperative Agreement; now, therefore, be it

RESOLVED by the Fauquier County Board of Supervisors this 14th day of December 2006, That the Cooperative Agreement between the Virginia Department of Game and Inland Fisheries and Fauquier County Board of Supervisors be, and is hereby, approved; and, be it

RESOLVED FURTHER, That the County Administrator be, and is hereby, authorized to execute the document.

A Resolution to Authorize Reclassifying the Position of Senior Assistant County Attorney from Part-Time Permanent to Full-Time Permanent (30 Hours Per Week)

RESOLUTION

A RESOLUTION TO AUTHORIZE RECLASSIFYING THE POSITION OF SENIOR ASSISTANT COUNTY ATTORNEY FROM PART-TIME PERMANENT TO FULL-TIME PERMANENT (30 HOURS PER WEEK)

WHEREAS, the Office of the County Attorney currently has a part-time Senior Assistant County Attorney position; and

WHEREAS, Kevin Burke, County Attorney has requested reclassifying the position to full-time permanent; now, therefore, be it

RESOLVED, by the Fauquier County Board of Supervisors this 14th day of December 2006, That the position of Senior Assistant County Attorney be, and is hereby, reclassified to full-time permanent (30 hours per week).

A Resolution to Authorize the Addition of Human Resources Policy 53, Personal Use of County Vehicle

RESOLUTION

**A RESOLUTION TO AUTHORIZE THE ADDITION OF HUMAN RESOURCES
POLICY 53, PERSONAL USE OF COUNTY VEHICLE**

WHEREAS, the Fauquier County Board of Supervisors recognizes the need and the importance of maintaining up-to-date Human Resources policies; and

WHEREAS, the Fauquier County Government Human Resources Policies Manual is continually reviewed for necessary additions, revisions and deletions; and

WHEREAS, recommended addition is contained in Policy 53, Personal Use of County Vehicle, dated December 14, 2006; now, therefore, be it

RESOLVED by the Fauquier County Board of Supervisors this 14th day of December 2006, That the addition of Human Resources Policy 53, Personal Use of County Vehicle be, and is hereby, approved effective December 14, 2006.

**HUMAN RESOURCES POLICY
Fauquier County, Virginia**

Policy Title: Personal Use of County Vehicle

Effective Date: 12/14/2006

Section No. : 53

PURPOSE

It is the objective of the Board of Supervisors and the School Board to establish standard procedures with respect to the accounting of the personal use of county owned or leased vehicles, and to follow IRS regulations on the reporting of the taxable value of the commuting fringe benefit to the employee.

SCOPE

This policy applies to all employees who are employed in a position that requires them to commute to and from work in a county provided vehicle for valid non-compensatory business reasons. The following vehicles are excluded from this policy, as they are defined by IRS regulations as qualified non-personal use vehicles. A qualified non-personal use vehicle is any vehicle the employee is not likely to use more than minimally for personal purposes because of its design:

- Clearly marked police and fire vehicles
- Unmarked vehicles used by law enforcement officers if the use is officially authorized
- School Buses
- Any vehicle designed to carry cargo with a loaded gross vehicle weight over 14,000 pounds
- Tractors and other special purpose farm vehicles
- Delivery trucks with seating for the driver only, or the driver plus a folding jump seat
- A passenger bus with a capacity of at least 20 passengers used for its specific purpose
- Vans with a loaded gross weight of 14,000 pounds or less that are clearly marked with permanently affixed decals, special painting, or other advertising associated with your business and has a seat for the driver only (or the driver and one other person) and either of the following items:
 - Permanent shelving that fits most of the cargo area, or
 - An open cargo area and the van always carries merchandise, material, or equipment used in your trade, business or function
- Pickup trucks with a loaded gross vehicle weight of 14,000 pounds or less that are clearly marked with permanently affixed decals, special painting, or other advertising associated with your business and meets either of the following requirements:
 - It is equipped with at least one of the following items:
 - A hydraulic lift gate
 - Permanent tanks or drums
 - Permanent sideboards or panels that materially raise the level of the sides of the truck bed
 - Other heavy equipment (such as an electric generator, welder, boom, or crane used to tow automobiles and other vehicles)
 - It is used primarily to transport a particular type of load (other than over the public highways) in a construction, manufacturing, processing, farming, mining, drilling timbering, or other similar

operation for which it was specially designed or significantly modified

- Clearly Marked Police or Fire Vehicles:

Marking on a license plate is NOT considered a 'clear mark'. Employee must always be on call. Employee must be required by the employer to use the vehicle for commuting. Employer must prohibit personal use (other than commuting) for travel outside of the officer or fire fighter's jurisdiction.

- Unmarked Law Enforcement Vehicles:

Employer must officially authorize personal use and the personal use must be incident to use for law-enforcement purposes; i.e., no vacation use. The employer must be a governmental unit responsible for prevention or investigation of crime.

The vehicle must be used by a full-time LAW ENFORCEMENT Officer, i.e. Officer authorized to carry firearms, execute warrants, and make arrests. The Officer must regularly carry firearms, except when it is not possible to do so because of the requirements of undercover work.

III. **PROCEDURE**

A. USAGE STANDARDS

Employees may be required to commute to and from work in their county vehicles for valid business reasons. Such employees are not authorized to use the vehicles for uses other than commuting and de minimis personal use.

B. COMPLIANCE

1) Employees who are required by their Department Heads/Constitutional Officers to drive county vehicles not excluded in the vehicle list in Section II, above, are required to submit a Fauquier County Government and Public Schools Representation Regarding Use of Company Vehicle form to the Payroll Department by the 15th of each month, listing commuting trips for the prior calendar month. The value of the commuting trips reported on the form will be added to the employee's taxable income and taxed accordingly in the next payroll cycle.

2) Employees who are required by their Department Heads/Constitutional Officers to drive qualified non-personal use vehicles listed in Section II, above, are required to submit a Fauquier County Government and Public Schools Vehicle Compliance Agreement annually to their Department Heads/Constitutional Officers, or designee.

A Resolution Approving Travel Expenses in Accordance with Travel Policy and Procedures – Finance Director

RESOLUTION

A RESOLUTION APPROVING TRAVEL EXPENSES IN ACCORDANCE WITH TRAVEL
POLICY AND PROCEDURES - FINANCE DIRECTOR

WHEREAS, the Fauquier County Board of Supervisors has adopted Travel Policy and Procedures which require approval of expenditures in excess of \$1,000; and

WHEREAS, Fauquier County recognizes the on-going value of supporting the professional development of its staff; and

WHEREAS, the training offered by the Government Finance Officers Association is the most advantageous for local government finance practitioners, and the annual conference provides the most comprehensive selection of sessions available in the profession; and

WHEREAS, Fauquier County adopted its Fiscal Year 2007 budget, in which funds were appropriated for staff to participate in the Government Finance Officers Association Annual Conference; and

WHEREAS, the Finance Director is requesting approval to attend this conference; and

WHEREAS, the conference will be held June 10-13, 2007, in Anaheim, California, and the cost is estimated to be \$1,950; and

WHEREAS, the County will be the beneficiary of the training and development in such areas as accounting, auditing, financial reporting, debt management, pensions and benefits, and technology and the digital government; now, therefore, be it

RESOLVED by the Fauquier County Board of Supervisors this 14th day of December 2006, that approval be, and is hereby, granted for staff designated herein to attend the Government Finance Officers Association Annual Conference, and to pay for travel expenditures associated with this attendance.

A Resolution Approving Travel Expenses in Accordance with Travel Policy and Procedures – Department of Information Technology

RESOLUTION

A RESOLUTION APPROVING TRAVEL EXPENSES IN ACCORDANCE WITH TRAVEL
POLICY AND PROCEDURES – DEPARTMENT OF INFORMATION TECHNOLOGY

WHEREAS, the Fauquier County Board of Supervisors has adopted a Travel Policy and Procedures which require approval of expenditures in excess of \$1,000; and

WHEREAS, the Department of Information Technology is requesting approval to send Jeanne Shutt and Carol Wood to the Captaris Learning Center, scheduled for January 6-12, 2007, in Bellevue, Washington, which is anticipated to entail costs of approximately \$7,500; and

WHEREAS, funding has been appropriated in the FY 2007 Budget to support the expenses of this conference; now, therefore, be it

RESOLVED by the Fauquier County Board of Supervisors this 14th of December 2006, That Jeanne Shutt and Carol Wood be, and are hereby, granted approval to attend the Captaris Learning Center and to be reimbursed for training and travel expenses.

A Resolution to Authorize the Execution of an Agreement to Provide for Fauquier County Maintenance of the Asphalt Trail Along Bear Wallow Road Adjacent to the Silver Cup Subdivision

RESOLUTION

A RESOLUTION TO AUTHORIZE THE EXECUTION OF AN AGREEMENT TO PROVIDE FOR FAUQUIER COUNTY MAINTENANCE OF THE ASPHALT TRAIL ALONG BEAR WALLOW ROAD ADJACENT TO THE SILVER CUP SUBDIVISION

WHEREAS, an asphalt shared-use trail along Bear Wallow Road and adjacent to the Silver Cup subdivision will be located partially within the Virginia Department of Transportation (VDOT) right-of-way; and

WHEREAS, to accept the trail for maintenance VDOT will require (i) construction of a standard shoulder and ditch section along Bear Wallow Road and (ii) additional grading between the trail and road, which would require removal of all the trees along Bear Wallow Road between Timber Fence Parkway (Silver Cup subdivision) and Fox View Drive (Broadview Manor Estates); and

WHEREAS, the asphalt shared-use trail, constructed to avoid the removal of the large trees along Bear Wallow Road and to lessen adverse impacts to the residents of the Silver Cup subdivision, is not eligible for maintenance by VDOT; and

WHEREAS, VDOT will not allow portions of the trail in the right-of-way under such circumstances unless the County agrees to maintain the trail; and

WHEREAS, there is no improved connection to the Silver Cup subdivision, but the trail forms an important link in pedestrian access to Rady Park in the Town of Warrenton and other area trails, and the Department of Parks and Recreation recommends approval of this agreement; and

WHEREAS, the developer has agreed to construct the trail at no cost to Fauquier County

as shown on the attached exhibit entitled “SHARED USE PATH SILVER CUP SUBDIVISION SECTION ONE,” prepared by Dewberry and Davis, LLC of Fredericksburg, Virginia; and

WHEREAS, minor technical modifications may be made to the trail design as shown on said exhibit to meet the requirements of the VDOT permit process; and

WHEREAS, the developer has agreed to make a voluntary contribution, in the total amount of \$6,000 to defray a portion of the trail maintenance costs; now, therefore, be it

RESOLVED by the Fauquier County Board of Supervisors this 14th day of December 2006, That the County Administrator be, and hereby is, authorized to execute an agreement, in a form approved by the County Attorney, to provide for Fauquier County maintenance of the asphalt shared use trail along Bear Wallow Road adjacent to the Silver Cup Subdivision.

A Resolution Directing the County Administrator to Schedule a Public Hearing to Consider an Ordinance to Classify Real Property Owned by Buchanan Hall as Exempt from Real Property Taxation

RESOLUTION

A RESOLUTION DIRECTING THE COUNTY ADMINISTRATOR TO SCHEDULE A PUBLIC HEARING TO CONSIDER AN ORDINANCE TO CLASSIFY REAL PROPERTY OWNED BY BUCHANAN HALL AS EXEMPT FROM REAL PROPERTY TAXATION

WHEREAS, Fauquier County Code Section 8-71 authorizes the Board of Supervisors to designate property as exempt from taxation where such property is held by an organization that uses the property exclusively for charitable purposes; and

WHEREAS, Virginia Code §58.1-3651 sets forth the process and procedure by which a locality may designate property as tax exempt; and

WHEREAS, Virginia Code §58.1-3651.B requires that prior to the adoption of any Ordinance exempting property from local taxation the Board of Supervisors shall hold a public hearing on the proposed application; now, therefore, be it; and

RESOLVED by the Fauquier County Board of Supervisors this 14th day of December 2006, That the County Administrator be, and is hereby, directed to schedule a public hearing on a proposed Ordinance on the application of Buchanan Hall for an exemption of its real property from taxation.

A Resolution to Designate an Alternative Agent for Subdivision Ordinance Administration

RESOLUTION

A RESOLUTION TO DESIGNATE AN ALTERNATIVE AGENT FOR SUBDIVISION ORDINANCE ADMINISTRATION

WHEREAS, Chapter 22, Code of Virginia, authorizes the Board of Supervisors to designate an Agent for Subdivision Ordinance Administration; and

WHEREAS, due to personnel changes, the Board desires to amend previous designations; now, therefore, be it

RESOLVED by the Fauquier County Board of Supervisor this 14th day of December 2006, That the following designations are made:

- Agents for Subdivision Ordinance Administration are Frederick P.D. Carr, Elizabeth A. Cook, and Kimberley P. Fogle

; and be it

RESOLVED FURTHER, That these designations supersede previous designations.

Preliminary Plat PPLT07-CR-002: Willow Creek Subdivision, Cedar Run District

No action was taken.

Preliminary Plat PPLT07-MA-026: Stone Crest Subdivision, Marshall District

No action was taken.

Preliminary Plat Amendment PPAM75-LE-001: Jackson Chase Subdivision, Lee District

No action was taken.

Preliminary Plat PPLT06-CR-017: The Estates at Old Marsh, Cedar Run District

No action was taken.

A Resolution Authorizing the Chairman of the Board of Supervisors to Execute an Interlocal Agreement to Implement the Workforce Investment Act

RESOLUTION

A RESOLUTION AUTHORIZING THE CHAIRMAN OF THE BOARD OF SUPERVISORS
TO EXECUTE AN INTERLOCAL AGREEMENT TO IMPLEMENT THE WORKFORCE
INVESTMENT ACT

WHEREAS, Fauquier County is part of the Piedmont Workforce Council organized under the Workforce Investment Act; and

WHEREAS, the Workforce Investment Act requires the Piedmont Workforce Council to take certain responsibilities and actions enumerated in the Interlocal Agreement attached to this resolution; and

WHEREAS, the Counties of Albemarle, Culpeper, Fauquier, Fluvanna, Greene, Louisa, Madison, Nelson, Orange, and Rappahannock and the City of Charlottesville entered into the Interlocal Agreement to define their respective duties and responsibilities under the Workforce Investment Act; now, therefore, be it

RESOLVED by the Fauquier County Board of Supervisors this 14th day of December 2006, That the Chairman of the Board of Supervisors be, and is hereby, authorized to execute the Interlocal Agreement to implement the Workforce Investment Act.

A Resolution to Initiate a Zoning Text Amendment to Section 7-502 and addition of Section 5-2003 to Authorize the Creation of Rural Health Remediation Districts and to Create Standards for Approval, by Special Exception, of Community Wastewater Systems in Such Districts

RESOLUTION

A RESOLUTION TO INITIATE A ZONING TEXT AMENDMENT TO SECTION 7-502
AND ADDITION OF SECTION 5-2003 TO AUTHORIZE THE CREATION OF RURAL
HEALTH REMEDIATION DISTRICTS AND TO CREATE STANDARDS FOR APPROVAL,
BY SPECIAL EXCEPTION, OF COMMUNITY WASTEWATER SYSTEMS IN SUCH
DISTRICTS

WHEREAS, the Board of Supervisors has reviewed a resolution to initiate a zoning text amendment to Section 7-502 and addition of Section 5-2003 to authorize the creation of rural health remediation districts, and to create standards for approval, by special exception, of community wastewater systems in such districts; and

WHEREAS, the Board of Supervisors has determined that the initiation and consideration of the proposed text amendment is appropriate and in the public interest, and is consistent with good zoning practice and public convenience; now, therefore, be it

RESOLVED by the Fauquier County Board of Supervisors this 14th day of December 2006, That the Board does hereby refer the attached proposed amendment to the Zoning Ordinance to the Fauquier County Planning Commission for its consideration and recommendation:

7-502

Public Sewer Requirements

1. Except as described herein, public sewer shall be required for all lots and dwelling units located in any service district in which public sewer is available.
2. However, public sewer is not required:

- a) Within the Catlett, Calverton and Midland Service Districts; or
 - b) In any area of a service district designated as a non-sewered growth area in the Comprehensive Plan.
 - c) In any area where the requirement for public sewer system has been removed by special exception pursuant to Section 3-330 and the general and specific standards contained in Article 5 of this Zoning Ordinance.
3. Public and private central sewer systems shall not be permitted outside of any service district, no permitted inside designated non-sewered areas within service districts of the Comprehensive Plan, except to correct existing health problems on developed lots. For purposes of this subsection the term “sewer system” shall be defined as any sewage disposal system serving two or more lots or dwelling units. Notwithstanding any other provision of this subsection to the contrary multiple use sewage disposal systems may be authorized outside of service district pursuant to Section 3-320 and the general and specific standards contained in Article 5 of this Zoning Ordinance when necessary to remediate a failed drainfield serving an existing use, which has been certified by the Virginia Health Department to pose a real or potential health threat and multiple use system is the only alternative for repair.

For existing lots with failing drainfields in designated non-sewered areas, within Service Districts of the Comprehensive Plan, the health mitigation priorities order are:

- a) installation of individual alternative systems for each lot;
 - b) connection to a public sewer system; and, as a last resort, for clustered failures affecting 15 or more lots;
 - c) a community wastewater system that provides advanced wastewater treatment capable of biological nutrient removal designed to the Community Wastewater System Standards, Utility Standards and Rules and Regulations of the Fauquier County Water and Sanitation Authority (WSA) for the specified watershed location. Such community wastewater treatment systems must be owned and operated by the WSA. An amendment to the Comprehensive Plan for any remediation area being connected to a public sewer system or community wastewater system shall be required and limited to the effected developed lots.
4. Notwithstanding the prohibitions set forth in Section 3, Public or Private Community Wastewater Systems may be authorized in a Rural Remediation District subject to the conditions set forth in Section 5-2003 of this Ordinance.

PART 20

5-2000

CATEGORY 20 PUBLIC UTILITIES

5-2001

Additional Submission Requirements

In addition to the submission requirements set forth in Section 011 above, all applications for Category 20 uses shall be accomplished by the following:

1. Four (4) copies of a map showing the utility system of which the proposed use will be an integral part, together with a written statement outlining the functional relationship of the proposed use to the utility system.
2. Four (4) copies of a statement, prepared by a certified engineer, giving the basic reasons for selecting the particular site as the location for the proposed facility and certifying that the proposed use will meet the performance standards of the district in which located.

5-2002

Standards for All Category 20 Uses

In addition to the general standards set forth in Section 006 above, all Category 20 special permit and special exception uses shall satisfy the following standards:

1. Category 20 special permit and special exception uses shall not be required to comply with the lot size requirements or the bulk regulations set forth for the zoning district in which located in Part 4 of Article 3. However, such requirements may be established in the conditions under which such a special permit or special exception is granted.
2. No land or building in any district other than the Industrial Districts shall be used for the storage of materials or equipment, or for the repair or servicing of vehicles or equipment or for the parking of vehicles, except those needed by employees connected with the operation of the immediate facility.
3. In all zoning districts, other than the I-2 District, all equipment, machinery and facilities not located within an enclosed building shall be effectively screened.
4. If the proposed location of a Category 20 use is in a Residential District there shall be a finding that there is no more suitable site available for such use in a Commercial or Industrial District, except that in the case of electric transformer stations and telephone and telegraph exchanges or dial centers, there shall be a finding that there is no alternative site available in a Commercial or Industrial District within distance of one mile, unless there is a substantial showing that it is impractical for satisfactory service to be rendered from an available location in such Commercial or Industrial District.
5. A special exception for a private individual sewage treatment system which discharges into an open ditch or water, shall be allowed only to replace an existing sewage system which is presently serving an existing use. That existing sewage system must have failed and have been certified by the Virginia Department of Health to pose a real or potential health threat and a discharging sewage treatment system is the only alternative for the repair. In approving such a system the Board may establish conditions including but not limited to use, maintenance, and testing.

6. Notwithstanding 5-2002.5, above, a private individual sewage treatment system which discharges into an open ditch or water may be approved in the RA/Rural Agriculture zoning district for a farm supply establishment where the standards listed below are met:
 - a. The system is operated under the control of a Class III, or higher, wastewater operator which holds a current permit licensed in the State of Virginia.
 - b. The system processes less than 1,000 gallons per day.
 - c. The Board finds such system to be the only viable option for the particular site.
 - d. In approving such a system, the Board may establish conditions including but not limited to use, maintenance, testing and reporting.
 - e. The system has a permanent maintenance and monitoring agreement from a state licensed laboratory, company, or business to do maintenance and monitoring in the state and county.

5-2003

Standards for Special Exception for Community Wastewater Treatment System in Rural Remediation Districts for Village, Settlement or Rural Cluster Development

Notwithstanding 5-2002.5, above, and in addition to the general standards set forth in Section 5-006 above, in an area designated as a Rural Remediation District in the Comprehensive Plan, a Community Wastewater Treatment System may be permitted by Special Exception under the following circumstances and subject to each of the standards and conditions set forth herein:

1. The Community Wastewater Treatment Plant shall be permitted to serve the proposed development only in an area where an existing wastewater treatment plan serving a commercial or industrial user has been in existence for at least 5 years and the existing plant shall be either expanded or replaced with a system which demonstrably decreases the environmental impact of the wastewater from the existing system. For the purposes of this section, environmental impact shall include but not be limited to nutrient load and bacteria.

2. Any Rural Remediation District designated within the Comprehensive Plan shall include at least one commercial or industrial user which, at the time of adoption of this ordinance, is served by a system which is either substandard or failing. The boundaries so designated shall constitute the service area for the Community Wastewater Treatment Plant. A Rural Remediation District may encompass additional areas beyond the commercial or industrial land, provided that the additional land shall be limited to those areas in which the provision of Community Wastewater treatment is consistent with the goals of the Comprehensive Plan, including but not limited to demonstration that the inclusion of the land shall provide for the preservation of open space, the clustering of development and the creation of a sufficient customer base to provide for the continued successful operation of the Community Wastewater System.

3. New residential subdivision lots may connect to the Community Wastewater Treatment Plant only if they are located within the area designated as a Rural Remediation District. Additionally, the environmental impact of any proposed subdivision which is to utilize the existing or replacement plant shall be demonstrably lower than the impact of the “by-right” development which would be permitted utilizing conventional systems or other individual on-site systems permitted by-right or by special exception.

4. Any spray or drip irrigation area associated with such Community Wastewater Treatment Plant shall be preserved in perpetuity for such use through an appropriate open-space easement and adequately buffered from adjoining properties.

5. The system shall be either owned and operated by the Fauquier County Water and Sanitation Authority or a property owners association consisting of all users of the system. Any privately operated system shall be operated by a Class III or higher wastewater system operator licensed by the Commonwealth of Virginia. Adequate conditions shall be imposed to provide for the continued operation and maintenance of the system by such operator in perpetuity, including but not limited to a business plan, provision for adequate capital reserves, and covenants and restrictions applicable to each parcel to afford the association authority to levy sufficient charges, enforceable by lien against individual property owners to provide for the continued maintenance and funding of the system.

A Resolution to Request the Planning Commission to Amend the Comprehensive Plan to Designate a Rural Health Remediation District Located on the East Side of Route 17 Near its Intersection with Ritchie Road to Include the Referenced PINs

RESOLUTION

A RESOLUTION TO REQUEST THE PLANNING COMMISSION TO AMEND THE
COMPREHENSIVE PLAN TO DESIGNATE A RURAL HEALTH REMEDIATION
DISTRICT LOCATED ON THE EAST SIDE OF ROUTE 17 NEAR ITS INTERSECTION
WITH RITCHIE ROAD TO INCLUDE THE REFERENCED PINS

WHEREAS, the developer of the Paddocks at Kastle Greens would like to create a Community Wastewater System that would serve a planned rural cluster subdivision, the existing Kastle Greens Golf Course, and the Commercial and Industrial zoned properties south of Ritchie Road; and

WHEREAS, the developer would like to combine this Community Wastewater System with the existing Kastle Greens Golf Course wastewater treatment system to allow for a treated effluent spray system to supplement the fresh water irrigation system at the Golf Course; and

WHEREAS, the proposed Community Wastewater System would serve a need to help failing septic systems and reduce the potential for non-point source pollution in the area; now, therefore, be it

RESOLVED by the Fauquier County Board of Supervisors this 14th day of December 2006, That the Planning Commission be, and is hereby, requested to consider designating a Rural Health Remediation District within the Comprehensive Plan to include the following PINs: 7808-44-6128-000, 7808-67-5339-000, 7808-24-7025-000, 7808-23-7865-000, 7808-23-8642-000, 7808-23-8268-000, 7808-32-5227-000, 7808-42-2799-000, 7808-31-4577-000, 7808-31-8892-000, 7808-41-5945-000, 7807-39-8634-000, 7808-21-7316-000, 7808-69-9040-000, 7808-52-3089-000 (portion), and 7808-21-7316-000 (portion) and more particularly described on the Rural Health Remediation Area Map.

APPOINTMENTS

By unanimous consent, the following appointment was approved:

- Industrial Development Authority – Scott District: John Nettles, appointed for a three-year term that expires December 11, 2009.
- Parks and Recreation Board – Scott District: Clayton Lescalleet, appointed for a four-year term that expires December 11, 2010.
- Planning Commission – Cedar Run District: Jim Stone, reappointed for a four-year term that expires December 31, 2010.
- Planning Commission – Scott District: Holder Trumbo, reappointed for a four-year term that expires December 31, 2010.
- Fauquier County Water and Sanitation Authority – Scott District: Maureen Riordan, reappointed for a 4 year term that expires December 31, 2010.
- Potomac Watershed Roundtable - Fauquier County Representative: Harry F. Atherton, reappointed for a three-year term that expires December 31, 2009.
- Potomac Watershed Roundtable - Fauquier County Representative (Alternate): Paul S. McCulla, appointed for a three-year term that expires December 31, 2009.

A ZONING ORDINANCE TEXT AMENDMENT TO SECTIONS 3-302, 5-200, 6-102, 6-300 AND 15-300 TO AMEND THE REGULATIONS AUTHORIZING HOME OCCUPATIONS AND RELATED ACCESSORY USE PROVISIONS

Mr. Atherton moved to adopt the following Ordinance. Mr. Robison seconded and, following discussion, the vote for the motion was unanimous, as follows:

<i>Ayes:</i>	<i>Mr. Harry F. Atherton; Mr. Raymond E. Graham; Mr. William G. Downey; Mr. Richard W. Robison; Mr. Chester W. Stribling</i>
<i>Nays:</i>	<i>None</i>
<i>Absent During Vote:</i>	<i>None</i>

Abstention: *None*

ORDINANCE

A ZONING ORDINANCE TEXT AMENDMENT TO SECTIONS 3-302, 5-200, 6-102, 6-300 AND 15-300 TO AMEND THE REGULATIONS AUTHORIZING HOME OCCUPATIONS AND RELATED ACCESSORY USE PROVISIONS

WHEREAS, it is appropriate to amend the Zoning Ordinance to refine requirements for commercial retail and business uses; and

WHEREAS, home occupations constitute an important segment of the business community in Fauquier County; and

WHEREAS, Fauquier County seeks to provide clearer and more flexible zoning regulations in support of business development in the County; and

WHEREAS, on August 10, 2006, the Board of Supervisors initiated this text amendment; and

WHEREAS, on October 16, 2006, the Planning Commission held a work session on the proposed text amendment and on October 26, 2006, after a public hearing, the Planning Commission forwarded the proposed text amendment to the Board of Supervisors recommending approval; and

WHEREAS, on November 9, 2006, the Fauquier County Board of Supervisors held a public hearing on this amendment; and

WHEREAS, adoption of the attached amendments to Sections 3-302, 5-200, 6-102, 6-300 and 15-300 support good zoning practice, convenience and the general welfare; now, therefore, be it

ORDAINED by the Fauquier County Board of Supervisors this 14th day of December 2006, That Sections 3-302, 5-200, 6-102, 6-300 and 15-300 related to authorized home occupations Section 2-310 be, and is hereby, amended as follows:

PART 1 6-100 ACCESSORY USES AND STRUCTURES

6-102 Permitted Accessory Uses

11. **Parking of commercial vehicles/tractor trailers subject to the following limitations:**
 - A. **In a residential district**, parking of not more than one commercial vehicle per occupant~~ey~~/operator ~~in a residential district~~ **shall be allowed**, but not to include any tractor trailer or vehicle exceeding one and one-half (1 ½) ton capacity. Parking shall not be in any required front or side yard.

- B. In the rural zoning districts, **parking of not more than one commercial vehicle/tractor trailer per occupant/operator shall be allowed, except** the parking of any tractor trailer or vehicle exceeding one and one-half (1 ½) ton shall not be permitted on a parcel of one (1) acre or less. Parking also shall not be permitted in any required setback. **Vehicles utilized for agriculture shall not be included in this limitation.**

<This language represents no change for residential districts, but is a significant change in rural districts. Currently, for parcels over an acre, an unlimited number of tractor trailers/commercial vehicles are allowed. The proposed change limits the number to one per occupant/owner. The current regulations authorizing unlimited accessory commercial vehicles are in conflict with the current regulations on home occupations. An unlimited number of commercial vehicles are allowed in the rural districts by this provision, yet other provisions of the zoning ordinance do not allow these vehicles to be utilized in any business. The revised language allows a single commercial vehicle for each owner/operator in the rural districts, as is currently allowed in residential districts. This would allow individuals to bring home and park a commercial truck from the business at which they work, but does not allow them to have multiple vehicles, suggesting a business is operating from the premises. Additional commercial vehicles are now authorized as part of the home occupation regulations in Section 6-300. Note that language has been added to clarify that the prohibition on commercial vehicles/heavy equipment does not include any such vehicles/equipment utilized in conjunction with farming the property. The prohibition against 1-1½ ton vehicles in Residential districts unless stored indoors is an existing provision, currently found in 6-103(1). >

- 30. Day Care services may be provided from a residence for no more than five children (excluding children living on the premises).** *<This provision is now under Section 6-300 as a home occupation, approved by administrative permit, but state law prohibits a jurisdiction from requiring any approval for this size home day care facility. Therefore, the use has been placed here, under the list of accessory uses allowed by-right.>*

- 31. The letting for hire of not more than two rooms to not more than two persons for periods no shorter than one month.** *<The letting of hire of not more than two rooms to not more than two persons for non-transients is now listed as a home occupation. The use is moved here under the accessory use section where it appears to fit better. Note that the revised language replaces the general “non-transient” language with specific language that rentals must be for at least a month. The idea is to clarify that this does not include bed and breakfasts or tourist homes, etc., which are separately authorized as a use elsewhere in the ordinance subject to certain limits.>*

6-103

Accessory Uses Not Permitted

- ~~1. Outdoor storage or overnight parking of buses, trucks or other vehicles exceeding one (1) ton capacity in a Residential District.~~ *<This provision conflicts with 6-102(11) which specifically authorizes commercial vehicles up to 1 ½ tons in residential districts. It appears the intent of this limitation was not to allow those vehicles in the 1-1½ ton range unless they are parked only during the day or are stored within buildings. This limitation has now been incorporated into 6-102(11), for clarity.>*

PART 3

6-300 HOME OCCUPATIONS

6-301

Authorization

Home occupations are permitted as an accessory use to residential use **within all dwelling units** subject to the following provisions and any use limitations applicable in the zoning district in which located. **Except as otherwise specifically authorized in the standards set forth below, only members of the household residing on the premises may be engaged in a home occupation. More than one home occupation shall be allowed in a single residence only if the cumulative impacts of such home occupations are no more than those authorized under the standards and limits of this section.** *<Currently, the home occupation definition is in the definitions section of the ordinance; defining what constitutes a home occupation within the home occupation section helps clarify what is allowed.>*

For purposes of this ordinance, Home Occupations are grouped into two categories. Minor Home Occupations may be authorized by approval of an administrative permit by the Zoning Administrator. Major Home Occupations require authorization by approval of a special permit by the Board of Zoning Appeals.

<Currently, home occupations are either approved through an administrative permit or special permit. The basic approval structure is not changing.>

6-302

Minor Home Occupations Allowed by Administrative Permit

1. An administrative permit authorizing a home occupation may be issued by the Zoning Administrator for any home occupation meeting the following limitations:

- A. The proposed home occupation shall be clearly incidental and subordinate to the use of the dwelling for residential purposes. In no case, shall more than 25% of the gross floor area of the dwelling be utilized for a home occupation. Alternatively, the use may occupy up to 500 square feet of an accessory structure.***<Currently, there is a limit of 250 square feet for all by-right home occupations; the change to 25% or 500 square feet represents a significant increase. Home occupations requiring more space would also be allowed, but require approval of a special permit. Note: The Chamber representative has suggested that there be no square footage limit, but only the 25% limit.>*
- B. Other than family members living on the premises, no more than one employee who comes to the premises shall be employed in the home occupation.***<This is the current rule. The language clarifies that employees who never come to the site are not counted as employees under this rule. Note: The Chamber representative has suggested that two employees be allowed by-right.>*
- C. All public contact related to such a use shall be limited to the period between 7:00 A.M. and 8:00 P.M.***<The current regulations provide no limit for some home occupations; however, most home occupations with public contact are now limited to either 8:30AM-8PM or 7AM to 8PM.>*
- D. All activities related to the home occupation shall occur indoors. There shall be no change in the outside appearance of the building or lot, nor other visible evidence of the conduct of such home occupation, including display of goods, or storage of equipment or materials outside of a fully enclosed structure.***<Existing language requires the activity to occur within the dwelling or*

accessory structure and also prohibits outdoor display or storage of goods, equipment, etc.>

E. No retail or wholesale sales shall occur unless:

i. No clients or customers come to the site in conjunction with the sales; all sales occur off-premises or via telephone, mail, computer, etc.; or

ii. The business is a “Direct Sales” type business, where customers are on the premises only by prior, individual invitation.

<Currently, the zoning ordinance allows no retail sales in conjunction with home occupations by-right, except in conjunction with cottage industries in the village zone (where products are produced on site). In other zoning districts, products produced or substantially improved on site are allowed with special permit approval. Historically, direct-sales type businesses (i.e. Avon, Tupperware, Amway, etc.) were approved for office use only, with no sales allowed on the premises. This revised language accommodates direct-sales type retail uses, which rely on individuals being able to operate from their homes. Clients would be able to come to the home on an invitation basis, providing these small businesses more reasonable flexibility than currently exists. The proposed language also clarifies that retail sales where everything occurs off-site are not prohibited; this could include the sale of goods via computer or off-site.>

F. No traffic shall be generated by such home occupation in greater volumes than would normally be expected in a residential neighborhood. Deliveries shall be limited to normal daily deliveries by public and private mail carriers.

<This language is new, and seeks to limit traffic to levels that would normally be anticipated within a residential area. Note: Most home occupation ordinances also limit the number of customers/clients coming to the site to a certain maximum number per day or week, or to a certain number at a time. Currently, the limits placed on home occupations by the ordinance vary significantly depending on the use. Professional offices have no limits. Teachers/tutors are limited to no more than 4 students at a time. Most other home occupations involving services (customers to the site) are not allowed by-right at all, under the current regulations. At the initial BOS work session on the ordinance, there was some suggestion that there should be no limit on the customers coming to the premises for any home occupation, as is now the case for office uses. Staff has some concern that an unlimited number of visitors for any home occupation could potentially create impacts on adjoining properties. One issue to be addressed is whether there should be limits on the number of customers/clients that may come to the premises, and if so, whether those limits should vary depending on the type of activity.>

G. Academic or other instructions may not be given to more than four persons at the same time.

<This is the current rule; teachers/tutors are limited to 4 students at a time.>

H. The applicant shall demonstrate that adequate parking area is available to serve the use. No such parking shall be located in a required front yard except within an existing driveway.

<This is a new provision. It is particularly important if there is no limit on visitors that the site be able to handle the visitors, by providing parking. Smaller sites with no parking would self-limit on visitors through this provision.>

I. No equipment or process used in such home occupation shall create noise, vibration, glare, fumes, odors, or electrical interference detectable to the normal senses off the lot. No hazardous materials shall be stored or utilized on-site in conjunction with the activity.

<The current language in the ordinance

limits any equipment not typically found in a home. This language allows any equipment, provided it is not discernable or dangerous.>

J. No commercial vehicles related to the home occupation beyond those authorized by Section 6-102(11) shall be parked or regularly brought to the premises, nor shall any such vehicles be parked on any public or private street within a ¼ mile of the premises. *<This prohibition effectively excludes home occupations by-right which involve commercial trucks and heavy equipment, other than allowing a single commercial vehicle for each owner/operator, which is already allowed in all residential and rural districts by Section 6-102(11). Home occupations involving commercial vehicles are likely to be more intrusive and are captured under the major home occupation section, for approval with a special permit.>*

K. Signage shall be limited to that authorized by 8-1401(1). *<One sign, not exceeding 2 square feet in area, not illuminated, height not to exceed 6 feet.>*

L. Such uses shall not be listed in Section 6-304 or be similar thereto, as determined by the Zoning Administrator. *<This list of prohibited uses is carried forward from the current ordinance, with minor modifications as set forth elsewhere in the proposed amendment.>*

6-303

Major Home Occupations Allowed by Special Permit Approval

The following home occupations may be authorized as a Major Home Occupation by approval of a special permit by the Board of Zoning Appeals:

- 1. Any home occupation meeting all standards set forth in Section 5-201.**
- 2. Small contracting business in the RC, RA, V, C-2, I-1 and I-2 districts, subject to the standards set forth in Section 5-202.**
- 3. Auto repair garage in the RC, RA, RR-2, I-1 and I-2 districts subject to the standards set forth in Section 5-203.**
- 4. Classic car sales subject to the standards set forth in Section 5-204.**
- 5. Gunsmithing subject to the standards set forth in Section 5-205.**
- 6. Pet Grooming subject to the standards set forth in Section 5-206.**

6-304

Uses Not Permitted as Home Occupations

Permitted home occupations shall not in any event be deemed to include:

- 1. ~~Antique shops, gift shops or other~~ retail uses except those specifically authorized by section 5-201(4) or 6-302(1)(E);**
- 2. ~~Funeral chapel or funeral home;~~**
- 3. ~~Assembly uses, including places of worship;~~**
- 4. ~~Medical or dental office, clinic, hospital, or care facility~~ [Note: medical/dental office uses may be authorized by special permit in the residential districts under Section 3-319];**

<Oddly, while medical and dental offices are specifically prohibited as home occupations here, they are also specifically authorized today under Section 6-302. In practice, such offices have not been approved under the home occupations

provisions, but rather have been approved as professional offices in the residential districts, requiring a special permit. With the maintenance of this language in the revised ordinance, medical and dental offices would continue to require special permit approval. As such offices are typically more high volume than most office uses, this approach seems like an appropriate one to assure impacts on adjoining properties are minimized or mitigated.>

5. **Renting of trailers, equipment, vehicles, machinery;**
6. **Clubs, eating or drinking establishments;**
7. **kennel, veterinary clinics/hospitals, pet grooming (except as specifically authorized in 6-303(6)).**
8. **Bed and breakfast, tourist home,** *<these are allowed, but not as a home occupation>*
9. **Abattoir,**
10. **Motor vehicle related uses except as specifically authorized in 6-303(3)&(4),**
11. **Recreation uses,**
12. **Adult entertainment activities/businesses**
13. **Dismantling, junk, scrap or storage yards (except small contracting business as specifically authorized by 6-303(2)).**

6-302 Permitted Home Occupations

~~Home occupations include the following uses and those uses determined by the Zoning Administrator to be sufficiently similar thereto in terms of type, scale and impact:~~

- ~~1. Artists and sculptors.~~
- ~~2. Authors and composers.~~
- ~~3. Dressmakers, seamstresses and tailors.~~
- ~~4. Family day care home limited to not more than five (5) children, excluding the provider's own children and any other children residing in the home.~~
- ~~5. Home crafts, such as model making, rug weaving, lapidary work, cabinet making, ceramics and similar light manufacturing uses.~~
- ~~6. Office facility of a minister, rabbi, priest or other similar person associated with a religious organization.~~
- ~~7. Office facility of salesman, sales representative or manufacturer's representative, provided that no retail or wholesale transactions are made on the premises.~~
- ~~8. Office facility, of an architect, artist, broker, consultant, dentist, physician, professional therapist, engineer, planner, landscape architect, public relations practitioner, instructor in arts and crafts, insurance agent, land surveyor, lawyer, musician, real estate agent and typist.~~
- ~~9. School of special education whose class size does not exceed four (4) pupils at any given time.~~
- ~~10. The letting for hire of not more than two (2) rooms, for rooming or boarding use for not more than two (2) persons, neither of whom is a transient.~~
- ~~11. Repair service establishment as a home occupation with special permit approval.~~

- ~~12. Sales of antique/classic automobiles where not more than 3 cars are inventoried, all cars are stored indoors, and there is no on-site signage or advertising with special permit approval.~~
- ~~13. Pet Grooming with special permit approval in the RC, RA, RR 2, R 1, R 2 and R 4 zoning districts and permitted by right in the Village zoning district.~~
- ~~14. Gunsmithing with an inventory for retail sales of not more than ten (10) guns at any one time, none of which can be fully automatic, with no on-site signage or advertising and with special permit approval.~~
- ~~15. Transportation/courier businesses with special permit approval.~~
- ~~16. Farriers, by right in all districts when the farrier travels off-site for business, by right in the Agriculture, Conservation, and Rural Residential Districts when the farrier works at his home, and by special permit in all other districts when the farrier works at home.~~

6-303 Uses Not Permitted as Home Occupations

Permitted home occupations shall not in any event be deemed to include antique shops, barbershops or beauty parlors, funeral chapel or funeral home, gift shop, medical or dental clinic or hospital, renting of trailers, restaurants, riding or boarding stable or kennel, tourist home, clinic or hospital, abattoir, motor vehicle related uses (see Section 3-314), commercial recreation uses, massage parlors and fortunetellers.

6-304 Use Limitations

In addition to the use limitations applicable to the zoning district in which located, all home occupations shall be subject to the following use limitations:

- ~~1. A home occupation must be conducted within a dwelling which is a bona fide residence of the principal practitioner or in any accessory building thereto which is normally associated with a residential use.~~
- ~~2. No retail sales shall be conducted on the premises (for uses allowed in accordance with Section 3-302.1).~~
- ~~3. No mechanical or electrical equipment shall be employed other than machinery or equipment customarily found in the home associated with a hobby or avocation not conducted for gain or profit, or machinery or equipment which is essential in the conduct of the home occupation.~~
- ~~4. No outside display of goods or outside storage of equipment or materials used in the home occupation shall be permitted.~~
- ~~5. No more than one (1) person other than a member of the household occupying such dwelling shall be employed.~~
- ~~6. No sign shall be permitted except in accordance with the provisions of Article 8.~~

	SITE PLAN	RC	RA	RR-2	V	R-1	R-2	R-3	R-4	TH	GA	MDP	C-1	C-2	C-3	CV	I-1	I-2
3-302 RESIDENTIAL BUSINESS (CATEGORY 2)																		
1. Minor Home Occupations		A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
2. Major Home Occupations		SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP
1. Home occupation with no retail — sales or service	-	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P
2. Home occupation with retail	-	SP	SP	SP	P	SP	SP	SP	SP	SP	SP	SP	P	P	P	P	-	-
3. Home occupation with service	-	P	P	P	P	P	SP	SP	SP	SP	SP	SP	P	P	P	P	-	-
3. Small contracting business		SP	SP	-	SP			-						SP	-		SP	SP
5. Cottage industries	-	SP	SP		SP									SP			SP	SP
4. Auto repair garage	X	SP	SP	SP			-											

In addition to the general standards set forth in Section 006 above, the following standards shall apply:

5-201**Standards for Major Home Occupations**

1. The proposed home occupation shall be clearly incidental and subordinate to the use of the dwelling for residential purposes.

<By-right home occupations are limited to 25% of the gross floor area or 1000 square feet, whichever is less; this broader standard allows the BZA to allocate more space to the use, provided the use itself is still clearly incidental to the main residential use of the property.>

2. There shall be no change in the outside appearance of the building or lot, nor other visible evidence of the conduct of such home occupation, including outside display of goods, or storage of equipment or materials in other than a fully enclosed structure.

<By-right home occupations must occur completely indoors. This looser standard would allow the BZA to authorize a home occupation where some activity occurs outdoors.>

3. No equipment or process used in such home occupation shall create noise, vibration, glare, fumes, odors, or electrical interference detectable to the normal senses off the lot. No hazardous materials shall be stored or utilized on site in conjunction with the activity.

<This is the same standard proposed for by-right home occupations.>

4. Retail goods may be authorized for display, storage or sale on the premises provided the goods are:

a) hand-crafted items that have been produced on the premises,

b) items that have been substantially repaired on site, adding at least 100% of the value; or

c) items accessory to the main business and sold only to clients or customers utilizing the main business.

<Under the existing home-occupation provisions, retail sales in conjunction with home-occupation always requires a special permit (with one exception, the village zone) and always limits goods for sale to those which have actually been produced, or in the case of cottage industries, substantially repaired on the premises. The proposed language maintains the ability to sell goods that have been produced or substantially repaired on premises, but also adds the ability for sale of some accessory goods for non-retail businesses. An example would be a beauty parlor that could sell shampoo products to its clientele.>

5. No more than two employees other than members of the household residing on premises, may be authorized on parcels less than five acres in size. No more than five such employees may be authorized for homes located on parcels at least five acres in size.

<Currently, only cottage industries and contracting businesses may have more than one non-resident employee engaged in the home occupation. This proposed change is a significant one. Adding employees potentially adds other activity, including more traffic to the site as more customers/clients are likely with more employees. On the other hand, a business with five employees which has no customers or clients to the site is likely to be less impactful than a business with no employees but a steady stream of clients to the site during the day. And the zoning ordinance already allows an office use in the rural and residential districts even where it is not a home occupation. Therefore, there are certainly instances where additional employees may be authorized without additional impacts to surrounding properties. The special permit process would allow the BZA to evaluate this issue on a case-by-case basis, while imposing such

conditions as necessary to insure minimal impacts. Note: the Chamber representative has suggested that the limit be no fewer than four employees for any parcel.>

6. **Off-street parking for the use shall be provided in the amount deemed necessary by the Board of Zoning Appeals. Parking shall not be located in any required front yard, except within an existing driveway.** <The current standards for special permit home occupations require parking to be provided consistent with the parking standards for site plans. Allowing the BZA to establish the parking level provides more flexibility for dealing with unique home occupations and also avoids unnecessary paving of residential/rural lots to provide parking.>
7. **All public contact related to such use shall be limited to a period between 7:00 AM and 8:00 PM, unless specifically authorized otherwise by the BZA.** <The current limit on most special permit home occupations is 7AM to 8PM; this revised language allows more flexibility to the BZA for unique circumstances.>
8. **Signage shall be limited to that authorized by 8-1401(1).**

5-201 Standards for Home Occupations with No Retail Sales

1. ~~Such use shall be permitted as a home occupation in accordance with Section 6-302 and shall not be listed in Section 6-303 or similar thereto.~~
2. ~~All public contact related to such a use shall be limited to the period between 8:30 A.M. and 8:00 P.M.~~
3. ~~Signs shall be limited to those allowed for home occupations in the zoning district where located.~~
4. ~~Such use shall satisfy the use limitations set forth in Section 6-304.~~

5-202 Standards for Home Occupations with Retail Sales and Services

1. ~~Such use shall be permitted as a home occupation in accordance with Section 6-302 and shall not be listed in Section 6-303 or similar thereto.~~
2. ~~All public contact related to such a use shall be limited to the period between 7:00 A.M. and 8:00 P.M.~~
3. ~~Off-street parking for the use shall be provided in accordance with the provisions of Article 7 in addition to that required for the dwelling unit and shall not be located in any required front yard.~~
4. ~~Signs shall be limited to those allowed for home occupations in the zoning district where located.~~
5. ~~Such use shall satisfy the use limitations set forth in Section 6-304, except that retail sales may not be displayed, stored or sold on the premises other than that which is produced on the premises.~~
6. ~~Such use shall have frontage on a public street maintained by VDOT.~~

5-2023 Standards for Small Contracting Businesses

1. **The use shall be allowed only in the RA, RC, V, C-2, I-1 and I-2, on parcels with a minimum lot size of five (5) acres.**
 2. All off-street parking and loading spaces, storage and loading areas, storage and structures which are related to such use shall be located not less than fifty (50) feet from any lot line.
 3. Not more than five (5) persons shall be engaged in the on-site operation of the business **except for parcels over 50 acres in size no more than 10 persons may be authorized.** *<At issue is whether the county would like to provide more opportunity for contractor's businesses from larger rural parcels. This use is one which we most frequently get requests for and are unable to authorize. In addition, illegal contracting businesses are one of our more frequent zoning violations, and it may be, at least in part, due to the fact that such businesses cannot legally be authorized. Staff is proposing for consideration a parallel increase in the number of vehicles allowed (from 5 to 10) and in the space allowed to be utilized (from 5,000 sq.ft. to 10,000 sq.ft.). There is no question that the larger business would produce more impacts, such as traffic. However, given the level of traffic allowed for other types of home occupations, where visitors and clients are allowed throughout the day, a somewhat larger contracting business may not be unreasonable, particularly on large parcels where substantial space is available to store the associated trucks and equipment without impact to surrounding properties.>*
 4. Not more than five (5) vehicles in excess of 1½ ¾ ton and/or pieces of equipment shall be operated from the site or stored there overnight, **except for parcels over 50 acres in size, no more than 10 such vehicles may be authorized.**
 5. Such a use shall have direct access to a road designated as a major collector (or higher) in the Comprehensive Plan unless the Board of Zoning Appeals finds that the type and amount of traffic generated by the particular use is such that it will not cause an undue impact on the neighbors or adversely effect safety of road usage.
 6. The area covered by all structures used in connection with such a use shall not exceed a total of five thousand (5,000) square feet, **except for parcels over 50 acres in size, no more than 10,000 square feet may be authorized.**
 7. The area covered by any outdoor storage in connection with such a use shall not exceed a total of five thousand (5,000) square feet, **except for parcels over 50 acres in size, no more than 10,000 square feet may be authorized.**
 8. All parking, loading and open storage shall be effectively screened from view.
 9. **No manufacturing, processing or assembly shall occur in conjunction with the home occupation.** *<While this is new language, it is not a new restriction. A contractor's business, by definition, does not involve on-site manufacturing or processing of materials. For example, a landscaping contractor may not make mulch on the site, as making mulch is categorized as a different use under the zoning ordinance. This language is being added to clarify the limitations of what constitutes a contractor's business.>*
- 109.**A special permit **for a small contracting business** may **only** be issued for a period not to exceed one year, and each permittee shall apply **annually at least 60 days prior to expiration** annually to the Zoning Administrator for a renewal of **his the** permit, should **a renewal be desired** ~~he so desire~~. **Upon application for renewal,** if the Zoning Administrator determines that all ~~of the~~ conditions under which the permit was issued have continued to be complied with, and that there have been no changed conditions, the Administrator shall renew said permit for an additional

period of one year. If, however, the **Zoning Administrator finds that the** permittee has not complied with each and every ~~one of the conditions imposed upon him~~, or in the event of changed conditions, the Zoning Administrator shall **deny renewal of the special permit** ~~revoke the temporary special permit in accordance with the provisions of Section 015.~~ **If the permittee does not apply for the renewal, the permit shall expire at the end of the one year period.** *<The annual renewal is proposed to be retained because contractor's uses are a frequent zoning enforcement issue. The annual renewal facilitates an annual inspection by zoning staff to assure ongoing compliance with limitations. The County may wish to consider whether, after a certain period of time in compliance, such uses could be approved for longer than a year.>*

110. Small Contracting Businesses include the following **types of contracting** uses and those uses determined by the Zoning Administrator to be sufficiently similar thereto in terms of type, scale and impact.

- A. Construction and/or repair of building, roads, fencing and utility lines.
- B. Installation and servicing of heating, cooling and electrical equipment, flooring, painting, plumbing, roofing and tiling.
- C. Excavating.
- D. Custom farming not in conjunction with a farming operation.

E. Landscaping Services and Contractors

~~124. Such uses shall be permitted as a home occupation in accordance with Section 6-302 and shall not be listed in Section 6-3034 or similar thereto.~~

13. Signage shall be limited to that authorized by 8-1401(1).

14. Site plan approval is required. *<This is a new requirement. Currently, the only home occupation requiring a site plan is auto repair. However, since a contracting business often involves construction of a significant building, parking area or storage area, a site plan is appropriate. In cases where physical improvements are not part of the proposal, the site plan can be waived, as it is for other commercial uses.>*

~~11. Small Contracting Businesses must be conducted within a dwelling which is a bona fide residence of the principal practitioner or in any accessory building thereto which is normally associated with a residential use.~~

5-204 Additional Standards for Cottage Industries

<Cottage industries is proposed to be eliminated as a separate category, but would still be allowed as minor and major home occupations, depending on the nature of the activity.>

- ~~1. Such uses shall be permitted as a home occupation in accordance with Section 6-302 and shall not be listed in Section 6-303 or similar thereto. Such use may also include production of products requiring trade skills such as carpentry, plumbing, electrical and printing.~~
- ~~2. A cottage industry must be conducted within a dwelling which is a bona fide residence of the principal practitioner or in any accessory building thereto which is normally associated with a residential use.~~
- ~~3. Not more than two (2) persons, other than bona fide residents of the site, shall be engaged in the operation of the business, including part time employees.~~

- ~~4. Such a use shall be conducted within the dwelling of the proprietor or within a separate structure not exceeding one story or 1,000 square feet in gross area and shall be located to the rear of the proprietor's dwelling.~~
- ~~5. Except for articles produced or substantially repaired on the premises, no stock in trade shall be displayed, stored or sold on the premises. "Substantially repaired" shall be deemed to include only repairs adding 100% to the value of an article.~~
- ~~6. No outside storage, display or sales of equipment, materials or stock in trade related to the business shall be allowed.~~
- ~~7. Signs shall be limited to those allowed for home occupations in the zoning district where located.~~
- ~~8. Off street parking and loading for the use shall be in accordance with the provisions of Article 7 in addition to that required for the dwelling unit and shall not be located on any required yard.~~

5-2035

Standards for Auto Repair Garages

- ~~1. Must be conducted within a dwelling which is a bona fide residence of the principal practitioner or in any accessory building thereto which is normally associated with a residential use.~~
- ~~2. All employees must reside on the lot and shall not exceed two.~~
- ~~3. All work shall be accomplished and vehicles in excess of two shall be located in a completely screened area and shall not be in any required yard.~~
- 1. The use shall be allowed only in the RA, RC, RR-2, CV I-1 and I-2 districts, on parcels with a 4-A minimum lot size of 2 acres shall be required.**
- 2. The proposed home occupation shall be clearly incidental and subordinate to the use of the dwelling for residential purposes.**
- 3. One No non-resident employees are is allowed.**
- ~~45. No more than Limited to 6 vehicles shall be on the site at any one time for service. All vehicles shall be stored and all work shall be accomplished within an enclosed structure or within a completely screened area. In no case shall vehicles be stored in any required yard.~~
- 5. Retail goods may not be displayed, stored or sold on the premises, except parts to be installed as part of the repair operation.**
- 6. No equipment or process used in such home occupation shall create noise, vibration, glare, fumes, odors, or electrical interference detectable to the normal senses off the lot.**
- 7. All public contact related to such a use shall be limited to the period between 7:00 A.M. and 8:00 P.M.**
- 8. Signage shall be limited to that authorized by 8-1401(1).**
- 9. Site plan approval is required.**

<The separate set of standards for an auto repair business are maintained in this proposal; these standards are generally the existing standards, clarified. Note: The Chamber representative has suggested that the more stringent limitations on employees be removed and that this use be allowed non-resident employees as any other business is allowed.>

Standards for Sales of Antique/Classic Automobiles as a Home Occupation

- 1. The proposed home occupation shall be clearly incidental and subordinate to the use of the dwelling for residential purposes.**
- 2. No non-resident employees are allowed.**
- 3. No more than 3 cars shall be inventoried for sale.**
- 4. All automobiles shall be stored and any work on the automobiles shall be done indoors, within a completely enclosed structure.**
- 5. No equipment or process used in such home occupation shall create noise, vibration, glare, fumes, odors, or electrical interference detectable to the normal senses off the lot.**
- 6. All public contact related to such a use shall be limited to the period between 7:00 A.M. and 8:00 P.M.**
- 7. No on-site advertising or signage allowed.**

<The current standards for classic car sales are more restrictive than the standards for most other home occupations, limiting the number of cars to three, allowing no employees, and allowing no signage. The Chamber representative has suggested that these special limits be removed, with the use allowed to have more vehicles and employees and signage.>

Additional Standards for Transportation/Courier Businesses

- ~~1. No more than two (2) employees shall be permitted, and both shall be bona fide residents of the property.~~
- ~~2. No commercial sign/advertising shall be allowed on vehicles when parked on the site. No signs will be permitted on the property.~~
- ~~3. Vehicle size may not exceed a standard passenger van.~~
- ~~4. No dispatching will be allowed from the site.~~

<This use has been deleted as a separate home occupation category, but the use could still be authorized as a minor or major home occupation.>

Standards for Gunsmithing as a Home Occupation

- 1. The proposed home occupation shall be clearly incidental and subordinate to the use of the dwelling for residential purposes.**
- 2. There shall be no change in the outside appearance of the building or lot, nor other visible evidence of the conduct of such home occupation, including outside display of goods, or storage of equipment or materials in other than a fully enclosed structure. For the purposes of this section, outdoor storage shall include storage in a trailer and/or open truckbed.**
- 3. No non-resident employees allowed.**

4. No equipment or process used in such home occupation shall create noise, vibration, glare, fumes, odors, or electrical interference detectable to the normal senses off the lot. No test firing of weapons shall occur on the site.

5 The inventory for retail sales shall not exceed 10 guns at one time, none of which can be fully automatic.

6. All public contact related to such a use shall be limited to the period between 7:00 A.M. and 8:00 P.M.

7. No on-site advertising or signage allowed.

<Gunsmithing has been left as a separate category in the revised ordinance because historically it has only been allowed subject to more stringent requirements than other home occupations (no employees, no signage, limited gun inventory. As an alternative, the special standards on gunsmithing could be deleted and this home occupation would then be allowed as a minor or major home occupation subject to the standard conditions. Note: The Chamber representative has suggested that Gunsmithing be treated no differently than any other home occupation, eliminating the limitation on employees, signage and number of guns.>

5-206

Standards for Pet Grooming as a Home Occupation

1. All public contact related to such a use shall be limited to the period between 7:00 A.M. and 8:00 P.M.

2. No more than two ~~one~~ employees other than members of the household residing on premises may be authorized.

3. Off-street parking for the use shall be provided in the amount deemed necessary by the Board of Zoning Appeals. Parking shall not be located in any required front yard, except within an existing driveway.

4. Signage shall be limited to that authorized by 8-1401(1).

A RESOLUTION TO APPROVE FUNDING FOR THE PURCHASE OF DEVELOPMENT RIGHTS OF QUALIFYING FIFTH ROUND APPLICANTS TO THE PURCHASE OF DEVELOPMENT RIGHTS PROGRAM

Mr. Atherton moved to adopt the following resolution. Mr. Stribling seconded and, following discussion, the vote for the motion was unanimous, as follows:

<i>Ayes:</i>	<i>Mr. Harry F. Atherton; Mr. Raymond E. Graham; Mr. William G. Downey; Mr. Richard W. Robison; Mr. Chester W. Stribling</i>
<i>Nays:</i>	<i>None</i>
<i>Absent During Vote:</i>	<i>None</i>
<i>Abstention:</i>	<i>None</i>

RESOLUTION

A RESOLUTION TO APPROVE FUNDING FOR THE PURCHASE OF DEVELOPMENT RIGHTS OF QUALIFYING FIFTH ROUND APPLICANTS TO THE PURCHASE OF DEVELOPMENT RIGHTS PROGRAM

WHEREAS, on February 19, 2002, the Fauquier County Board of Supervisors adopted the Purchase of Development Rights (PDR) Program to acquire conservation easements for the purpose of protecting agriculture, providing open space, and ameliorating the impact of development on the County, and authorizing payment of \$20,000 per development right; and

WHEREAS, on October 13, 2005, the Fauquier County Board of Supervisors approved an increase of \$10,000 in the payment per development right to total \$30,000 per development right in the Purchase of Development Rights (PDR) Program; and

WHEREAS, the Fauquier County Board of Supervisors created the PDR Committee to assist the Board of Supervisors in selecting qualified farm properties for preservation; and

WHEREAS, on August 22, 2006, September 14, 2006, and October 10, 2006, the PDR Committee visited and ranked the farms in accordance with the adopted PDR application scoring system, and on November 14, 2006, the PDR Committee voted unanimously to recommend Purchase of Development Rights on all eight properties; and

WHEREAS, the PDR Committee highly recommends that the Board of Supervisors approve funding for the Purchase of Development Rights Easements representing a total of 37 development rights on eight farms; now, therefore, be it

RESOLVED by the Fauquier County Board of Supervisors this 14th day of December 2006, That the County Administrator be, and is hereby, authorized to negotiate and execute the purchases of the following eligible development rights as recommended by the PDR Committee.

Applicant	Acres	Parcels	Development Rights	Cost
John Gulick	70.97	1	3	\$90,000
Harold L. and Gloria P. Comer	147.88	1	7	\$210,000
Cynthia M. Brickley	72.96	2	2	\$60,000
Howard Grove	200	1	9	\$270,000
R. Wayne Arrington	97.5	1	5	\$150,000
Michael A. Pearson	63.03	1	3	\$90,000
Clark W. and Jane C. Crumbaugh	53.5	1	3	\$90,000
Warren Leighton-Grove	59.14	2	5	\$150,000
TOTALS	764.98	10	37	\$1,110,000

A RESOLUTION OF THE FAUQUIER COUNTY BOARD OF SUPERVISORS TO SUPPORT THE VIRGINIA GENERAL ASSEMBLY'S DESIGNATION OF THAT PORTION OF GOOSE CREEK LOCATED WITHIN THE BOUNDARIES OF FAUQUIER COUNTY AS SCENIC RIVER PURSUANT TO THE SCENIC RIVERS ACT (SECTIONS 10.1-400 THROUGH 10.1-418) OF THE CODE OF VIRGINIA

Mr. Atherton moved to adopt the following resolution. Mr. Downey seconded and, following discussion, the vote for the motion was unanimous, as follows:

Ayes: Mr. Harry F. Atherton; Mr. Raymond E. Graham; Mr. William G. Downey; Mr. Richard W. Robison; Mr. Chester W. Stribling
Nays: None
Absent During Vote: None
Abstention: None

RESOLUTION

A RESOLUTION OF THE FAUQUIER COUNTY BOARD OF SUPERVISORS TO SUPPORT THE VIRGINIA GENERAL ASSEMBLY'S DESIGNATION OF THAT PORTION OF GOOSE CREEK LOCATED WITHIN THE BOUNDARIES OF FAUQUIER COUNTY AS SCENIC RIVER PURSUANT TO THE SCENIC RIVERS ACT (SECTIONS 10.1-400 THROUGH 10.1-418) OF THE CODE OF VIRGINIA

WHEREAS, the Code of Virginia, pursuant to Title 10.1, Sections 10.1-400 through 10.1-418, provides for a "Scenic Rivers Act" under the jurisdiction of the Virginia Department of Conservation and Recreation; and

WHEREAS, in 1976, the portion of Goose Creek located in Loudoun County was designated by the Virginia General Assembly as a State Scenic River; and

WHEREAS, the Fauquier County Comprehensive Plan, as adopted by the Board of Supervisors, recognizes Goose Creek as scenic and environmentally sensitive; and

WHEREAS, the designation of the portion of Goose Creek within Fauquier County as a Scenic River is consistent in meeting designation status goals as expressed in the 2002 Virginia Outdoors Plan; and

WHEREAS, designation of the portion of Goose Creek within Fauquier County as a Scenic River would recognize this resource throughout its length from its headwaters to its confluence with the Potomac River; and

WHEREAS, by letter to Joseph H. Maroon, Director of the Virginia Department of Conservation and Recreation, the Fauquier County Board of Supervisors has requested that the Virginia Department of Conservation and Recreation conduct a study of Fauquier County's portion of Goose Creek to determine its potential as a State Scenic River; now, therefore, be it

RESOLVED by the Fauquier County Board of Supervisors this 14th day of December 2006, That the Board does hereby state its support for the Virginia General Assembly to

designate that portion of Goose Creek within the boundaries of Fauquier County, from the confluence of the north and the south prongs of Goose Creek approximately 0.22 miles downstream from the crossing of the Appalachian Trail in Fauquier County to the Loudoun/Fauquier County border, as a Scenic River pursuant to the Scenic Rivers Act; and, be it

RESOLVED FURTHER, That the Fauquier County Board of Supervisors does hereby respectfully request that the members of the Fauquier County legislative delegation introduce designation legislation to the Virginia General Assembly for approval and designation in the 2007 session.

A RESOLUTION TO AUTHORIZE THE ACCEPTANCE OF A CONSERVATION EASEMENT OVER THE PROPERTY OF THOMAS H. THORPE

Mr. Atherton moved to postpone action on a resolution to authorize the acceptance of a conservation easement over the property of Thomas H. Thorpe, until after the public hearing to consider a proposed Comprehensive Plan Amendment to remove the “Village” designation in the Comprehensive Plan from PIN #7839-44-7577-000, owned by Thomas H. Thorpe and located in the Village of Bristersburg. Mr. Downey seconded and, following discussion, the vote for the motion was unanimous, as follows:

<i>Ayes:</i>	<i>Mr. Harry F. Atherton; Mr. Raymond E. Graham; Mr. William G. Downey; Mr. Richard W. Robison; Mr. Chester W. Stribling</i>
<i>Nays:</i>	<i>None</i>
<i>Absent During Vote:</i>	<i>None</i>
<i>Abstention:</i>	<i>None</i>

A RESOLUTION TO AUTHORIZE THE ACCEPTANCE OF A CONSERVATION EASEMENT OVER THE PROPERTY OF LEE D. ROSE AND JANET E. ROSE

Mr. Atherton moved to adopt the following resolution. Mr. Graham seconded and, following discussion, the vote for the motion was unanimous, as follows:

<i>Ayes:</i>	<i>Mr. Harry F. Atherton; Mr. Raymond E. Graham; Mr. William G. Downey; Mr. Richard W. Robison; Mr. Chester W. Stribling</i>
<i>Nays:</i>	<i>None</i>
<i>Absent During Vote:</i>	<i>None</i>
<i>Abstention:</i>	<i>None</i>

RESOLUTION

A RESOLUTION TO AUTHORIZE THE ACCEPTANCE OF A CONSERVATION
EASEMENT OVER THE PROPERTY OF
LEE D. ROSE AND JANET E. ROSE

WHEREAS, Lee D. Rose and Janet E. Rose have proposed to donate a conservation easement over their property described as PIN #6936-17-6137; and

WHEREAS, the Board of Supervisors has determined that the proposed easement is appropriate and in the public interest; and

WHEREAS, the Board of Supervisors has determined that the proposed easement will preserve important agricultural and scenic resources in a manner consistent with the Comprehensive Plan; and

WHEREAS, the Board of Supervisors hereby designates the property as open-space under the authority of Chapter 17 of Title 10.1 of the Code of Virginia, the "Open-Space Land Act"; now, therefore, be it

RESOLVED by the Fauquier County Board of Supervisors this 14th day of December 2006, That the Board finds that the Grantor's Property is proximate to other property under open-space easement to the Virginia Outdoors Foundation, an agency of the Commonwealth of Virginia and contributes to the open-space values of such lands; and, be it

RESOLVED FURTHER, That the Board of Supervisors hereby finds:

1. The Property has approximately three hundred (300) linear feet of frontage along State Route 688 (Leeds Manor Road), a Virginia Scenic Byway, is primarily forested land, with approximately thirty percent (30%) pasture land and three springs rise on the Property, including one bold spring which is the headwaters of a tributary (the "Protected Stream") to Thumb Run, itself a tributary to the Rappahannock River, a State Scenic River; and
2. The Property is located within the Upper Rappahannock River watershed, an area shown on Map 8.11, "Scenic Roads, Areas and Rivers" in the Fauquier County Comprehensive Plan (1992-2010) and identified for special environmental protection in that Comprehensive Plan, the Rappahannock River being a public drinking water supply for the City of Fredericksburg and having been first designated a Scenic River in 1985 and extended in 1990 by a subsequent Act of the General Assembly; and
3. Most of the Property is visible from State Route 688 (Leeds Manor Road), a Virginia Scenic Byway, and contributes to the scenic enjoyment of the public traveling along that road; and, be it

RESOLVED FINALLY, That the County Administrator and the County Attorney be, and are hereby, authorized to accept the donation of a conservation easement under those terms generally set forth in the proposed easement attached to the agenda request for this item, subject to such revisions as may be deemed appropriate to the County Administrator and County Attorney.

ADDITIONAL PROPOSED CONSERVATION EASEMENTS:

A RESOLUTION TO AUTHORIZE THE ACCEPTANCE OF A CONSERVATION EASEMENT OVER THE PROPERTY OF VIRGINIA FARMS LLC AND GEORGE M. CHESTER, JR.

Mr. Atherton moved to adopt the following resolution. Mr. Downey seconded and, following discussion, the vote for the motion was unanimous, as follows:

Ayes: Mr. Harry F. Atherton; Mr. Raymond E. Graham; Mr. William G. Downey; Mr. Richard W. Robison; Mr. Chester W. Stribling
Nays: None
Absent During Vote: None
Abstention: None

RESOLUTION

**A RESOLUTION TO AUTHORIZE THE ACCEPTANCE
OF A CONSERVATION EASEMENT OVER THE PROPERTY OF
VIRGINIA FARMS LLC AND GEORGE M. CHESTER, JR.**

WHEREAS, Virginia Farms LLC and George M. Chester, Jr. have proposed to donate conservation easements over property described as PIN-6031-25-7873; 6031-65-1184; 6031-05-7906; 6031-42-7288; 6031-32-4704, consisting of approximately 377.4628 acres, hereinafter “the Property;” and

WHEREAS, the Board of Supervisors has determined that the proposed easement is appropriate, in the public interest, and furthers the goals and objectives of its Comprehensive Plan; and

WHEREAS, the Board of Supervisors has determined that the proposed easement will preserve important agricultural and forestal lands and scenic and natural resources in a manner consistent with the Comprehensive Plan; and

WHEREAS, the Board of Supervisors hereby designates the Property as open-space under the authority granted by Chapter 17 of Title 10.1 of the Code of Virginia, 1950, as amended, the “Open-Space Land Act,” now, therefore, be it

RESOLVED by the Fauquier County Board of Supervisors this 14th day of December 2006, That the Board finds as follows:

1. That the proposed easements preserve open-space lands in the County pursuant to the goals and objectives stated in the County’s Comprehensive Plan and thereby advance a public purpose of the County; and
2. The restrictions contained in the proposed easements will preserve and protect in perpetuity the open-space values of the Property and will limit the uses of the Property to

those uses which are consistent with and which will not adversely affect the open-space values described in the easement; and

3. The proposed easements will provide a significant public benefit to the citizens of Fauquier County and the Commonwealth of Virginia.

RESOLVED FURTHER, That the County Administrator and the County Attorney be, and are hereby, authorized and directed to accept the donation of conservation easements under those terms generally set forth in the proposed easement attached to the agenda request for this item, subject to such revisions as may be deemed appropriate to the County Administrator and County Attorney.

A RESOLUTION TO AUTHORIZE THE ACCEPTANCE OF A CONSERVATION EASEMENT OVER THE PROPERTY OF THE LAW FAMILY PARTNERSHIP

Mr. Atherton moved to adopt the following resolution. Mr. Downey seconded and, following discussion, the vote for the motion was unanimous, as follows:

<i>Ayes:</i>	<i>Mr. Harry F. Atherton; Mr. Raymond E. Graham; Mr. William G. Downey; Mr. Richard W. Robison; Mr. Chester W. Stribling</i>
<i>Nays:</i>	<i>None</i>
<i>Absent During Vote:</i>	<i>None</i>
<i>Abstention:</i>	<i>None</i>

RESOLUTION

A RESOLUTION TO AUTHORIZE THE ACCEPTANCE OF A CONSERVATION EASEMENT OVER THE PROPERTY OF THE LAW FAMILY PARTNERSHIP

WHEREAS, The Law Family Partnership has proposed to donate a conservation easement over its property described as PIN-6000-54-4074, consisting of approximately 75.88 acres, hereinafter “the Property;” and

WHEREAS, the Board of Supervisors has determined that the proposed easement is appropriate, in the public interest, and furthers the goals and objectives of its Comprehensive Plan; and

WHEREAS, the Board of Supervisors has determined that the proposed easement will preserve important agricultural and forestal lands and scenic and natural resources in a manner consistent with the Comprehensive Plan; and

WHEREAS, the Board of Supervisors hereby designates the Property as open-space under the authority granted by Chapter 17 of Title 10.1 of the Code of Virginia, 1950, as amended, the “Open-Space Land Act,” now, therefore, be it

RESOLVED by the Fauquier County Board of Supervisors this 14th day of December 2006, That the Board finds as follows:

1. That the proposed easement preserves open-space lands in the County pursuant to the goals and objectives stated in the County's Comprehensive Plan and thereby advances a public purpose of the County; and
2. The restrictions contained in the proposed easement will preserve and protect in perpetuity the open-space values of the Property and will limit the uses of the Property to those uses which are consistent with and which will not adversely affect the open-space values described in the easement; and
3. The proposed easement will provide a significant public benefit to the citizens of Fauquier County and the Commonwealth of Virginia.

RESOLVED FURTHER, That the County Administrator and the County Attorney be, and are hereby, authorized and directed to accept the donation of a conservation easement under those terms generally set forth in the proposed easement attached to the agenda request for this item, subject to such revisions as may be deemed appropriate to the County Administrator and County Attorney.

A RESOLUTION TO AUTHORIZE THE ACCEPTANCE OF A CONSERVATION EASEMENT OVER THE PROPERTY OF MT. JOY FARM LIMITED PARTNERSHIP/CLIFDEN, LLC

Mr. Atherton moved to adopt the following resolution. Mr. Downey seconded and, following discussion, the vote for the motion was unanimous, as follows:

<i>Ayes:</i>	<i>Mr. Harry F. Atherton; Mr. Raymond E. Graham; Mr. William G. Downey; Mr. Richard W. Robison; Mr. Chester W. Stribling</i>
<i>Nays:</i>	<i>None</i>
<i>Absent During Vote:</i>	<i>None</i>
<i>Abstention:</i>	<i>None</i>

RESOLUTION

A RESOLUTION TO AUTHORIZE THE ACCEPTANCE OF A CONSERVATION EASEMENT OVER THE PROPERTY OF MT. JOY FARM LIMITED PARTNERSHIP/CLIFDEN, LLC

WHEREAS, Mt. Joy Farm, Limited Partnership/Clifden, LLC has proposed to donate conservation easements over property described as PIN-6959-78-0526; 6959-69-7952; 6959-76-1877, consisting of approximately 220.421 acres, hereinafter "the Property;" and

WHEREAS, the Board of Supervisors has determined that the proposed easements are appropriate, in the public interest, and furthers the goals and objectives of its Comprehensive Plan; and

WHEREAS, the Board of Supervisors has determined that the proposed easements will preserve important agricultural and forestal lands and scenic and natural resources in a manner consistent with the Comprehensive Plan; and

WHEREAS, the Board of Supervisors hereby designates the Property as open-space under the authority granted by Chapter 17 of Title 10.1 of the Code of Virginia, 1950, as amended, the "Open-Space Land Act," now, therefore, be it

RESOLVED by the Fauquier County Board of Supervisors this 14th day of December 2006, That the Board finds as follows:

1. That the proposed easements preserve open-space lands in the County pursuant to the goals and objectives stated in the County's Comprehensive Plan and thereby advance a public purpose of the County; and
2. The restrictions contained in the proposed easements will preserve and protect in perpetuity the open-space values of the Property and will limit the uses of the Property to those uses which are consistent with and which will not adversely affect the open-space values described in the easement; and
3. The proposed easements will provide a significant public benefit to the citizens of Fauquier County and the Commonwealth of Virginia.

RESOLVED FURTHER, That the County Administrator and the County Attorney be, and are hereby, authorized and directed to accept the donation of a conservation easement under those terms generally set forth in the proposed easement attached to the agenda request for this item, subject to such revisions as may be deemed appropriate to the County Administrator and County Attorney.

A RESOLUTION TO AUTHORIZE THE ACCEPTANCE OF A CONSERVATION EASEMENT OVER THE PROPERTY OF JOHN D. MCCARTY, JR.

Mr. Atherton moved to adopt the following resolution. Mr. Downey seconded and, following discussion, the vote for the motion was unanimous, as follows:

<i>Ayes:</i>	<i>Mr. Harry F. Atherton; Mr. Raymond E. Graham; Mr. William G. Downey; Mr. Richard W. Robison; Mr. Chester W. Stribling</i>
<i>Nays:</i>	<i>None</i>
<i>Absent During Vote:</i>	<i>None</i>
<i>Abstention:</i>	<i>None</i>

RESOLUTION

A RESOLUTION TO AUTHORIZE THE ACCEPTANCE OF A CONSERVATION
EASEMENT OVER THE PROPERTY OF
JOHN D. MCCARTY, JR.

WHEREAS, John D. McCarty, Jr. has proposed to donate a conservation easement over his property described as PIN-6031-84-9812, consisting of approximately 205.1555 acres, hereinafter “the Property;” and

WHEREAS, the Board of Supervisors has determined that the proposed easement is appropriate, in the public interest, and furthers the goals and objectives of its Comprehensive Plan; and

WHEREAS, the Board of Supervisors has determined that the proposed easement will preserve important agricultural and forestal lands and scenic and natural resources in a manner consistent with the Comprehensive Plan; and

WHEREAS, the Board of Supervisors hereby designates the Property as open-space under the authority granted by Chapter 17 of Title 10.1 of the Code of Virginia, 1950, as amended, the “Open-Space Land Act,” now, therefore, be it

RESOLVED by the Fauquier County Board of Supervisors this 14th day of December 2006, That the Board finds as follows:

1. That the proposed easement preserves open-space lands in the County pursuant to the goals and objectives stated in the County’s Comprehensive Plan and thereby advances a public purpose of the County; and
2. The restrictions contained in the proposed easement will preserve and protect in perpetuity the open-space values of the Property and will limit the uses of the Property to those uses which are consistent with and which will not adversely affect the open-space values described in the easement; and
3. The proposed easement will provide a significant public benefit to the citizens of Fauquier County and the Commonwealth of Virginia.

RESOLVED FURTHER, That the County Administrator and the County Attorney be, and are hereby, authorized and directed to accept the donation of a conservation easement under those terms generally set forth in the proposed easement attached to the agenda request for this item, subject to such revisions as may be deemed appropriate to the County Administrator and County Attorney.

A RESOLUTION TO AUTHORIZE THE ACCEPTANCE OF A CONSERVATION EASEMENT OVER THE PROPERTY OF MONTANA FARM, LLC

Mr. Atherton moved to adopt the following resolution. Mr. Downey seconded and, following discussion, the vote for the motion was unanimous, as follows:

<i>Ayes:</i>	<i>Mr. Harry F. Atherton; Mr. Raymond E. Graham; Mr. William G. Downey; Mr. Richard W. Robison; Mr. Chester W. Stribling</i>
<i>Nays:</i>	<i>None</i>
<i>Absent During Vote:</i>	<i>None</i>
<i>Abstention:</i>	<i>None</i>

RESOLUTION

A RESOLUTION TO AUTHORIZE THE ACCEPTANCE OF A CONSERVATION EASEMENT OVER THE PROPERTY OF MONTANA FARM, LLC

WHEREAS, Montana Farm, LLC has proposed to donate a conservation easement over its property described as PIN-6041-20-2416; 6041-20-6433; 6040-27-8283; 6040-18-3124; 6041-18-4518; 6040-18-7974; 6040-19-9402; 6040-29-1794; 6040-17-6419, consisting of approximately 219.2816 acres, hereinafter “the Property;” and

WHEREAS, the Board of Supervisors has determined that the proposed easement is appropriate, in the public interest, and furthers the goals and objectives of its Comprehensive Plan; and

WHEREAS, the Board of Supervisors has determined that the proposed easement will preserve important agricultural and forestal lands and scenic and natural resources in a manner consistent with the Comprehensive Plan; and

WHEREAS, the Board of Supervisors hereby designates the Property as open-space under the authority granted by Chapter 17 of Title 10.1 of the Code of Virginia, 1950, as amended, the “Open-Space Land Act,” now, therefore, be it

RESOLVED by the Fauquier County Board of Supervisors this 14th day of December 2006, That the Board finds as follows:

1. That the proposed easement preserves open-space lands in the County pursuant to the goals and objectives stated in the County’s Comprehensive Plan and thereby advances a public purpose of the County; and
2. The restrictions contained in the proposed easement will preserve and protect in perpetuity the open-space values of the Property and will limit the uses of the Property to those uses which are consistent with and which will not adversely affect the open-space values described in the easement; and
3. The proposed easement will provide a significant public benefit to the citizens of Fauquier County and the Commonwealth of Virginia.

RESOLVED FURTHER, That the County Administrator and the County Attorney be, and are hereby, authorized and directed to accept the donation of a conservation easement under those terms generally set forth in the proposed easement attached to the agenda request for this item, subject to such revisions as may be deemed appropriate to the County Administrator and County Attorney.

A RESOLUTION TO AUTHORIZE THE ACCEPTANCE OF A CONSERVATION EASEMENT OVER THE PROPERTY OF ROBERT B. SEMPLE, JR., LLOYD A. SEMPLE, ET. AL.

Mr. Atherton moved to adopt the following resolution. Mr. Downey seconded and, following discussion, the vote for the motion was unanimous, as follows:

Ayes: Mr. Harry F. Atherton; Mr. Raymond E. Graham; Mr. William G. Downey; Mr. Richard W. Robison; Mr. Chester W. Stribling
Nays: None
Absent During Vote: None
Abstention: None

RESOLUTION

A RESOLUTION TO AUTHORIZE THE ACCEPTANCE OF A CONSERVATION EASEMENT OVER THE PROPERTY OF ROBERT B. SEMPLE, JR., LLOYD A. SEMPLE, ET AL.

WHEREAS, Robert B. Semple, Jr., Lloyd A. Semple, et al., have proposed to donate a conservation easement over their property described as PIN-6030-54-0039; 6030-64-8252, consisting of approximately 462.37 acres, hereinafter “the Property;” and

WHEREAS, the Board of Supervisors has determined that the proposed easement is appropriate, in the public interest, and furthers the goals and objectives of its Comprehensive Plan; and

WHEREAS, the Board of Supervisors has determined that the proposed easement will preserve important agricultural and forestal lands and scenic and natural resources in a manner consistent with the Comprehensive Plan; and

WHEREAS, the Board of Supervisors hereby designates the Property as open-space under the authority granted by Chapter 17 of Title 10.1 of the Code of Virginia, 1950, as amended, the “Open-Space Land Act,” now, therefore, be it

RESOLVED by the Fauquier County Board of Supervisors this 14th day of December 2006, That the Board finds as follows:

1. That the proposed easement preserves open-space lands in the County pursuant to the goals and objectives stated in the County’s Comprehensive Plan and thereby advances a public purpose of the County; and
2. The restrictions contained in the proposed easement will preserve and protect in perpetuity the open-space values of the Property and will limit the uses of the Property to those uses which are consistent with and which will not adversely affect the open-space values described in the easement; and

3. The proposed easement will provide a significant public benefit to the citizens of Fauquier County and the Commonwealth of Virginia.

RESOLVED FURTHER, That the County Administrator and the County Attorney be, and are hereby, authorized and directed to accept the donation of a conservation easement under those terms generally set forth in the proposed easement attached to the agenda request for this item, subject to such revisions as may be deemed appropriate to the County Administrator and County Attorney.

A RESOLUTION TO AUTHORIZE THE ACCEPTANCE OF A CONSERVATION EASEMENT OVER THE PROPERTY OF CEDAR HILL SEVEN, LLC

Mr. Downey moved to adopt the following resolution. Mr. Atherton seconded and, following discussion, the vote for the motion was unanimous, as follows:

<i>Ayes:</i>	<i>Mr. Harry F. Atherton; Mr. Raymond E. Graham; Mr. William G. Downey; Mr. Richard W. Robison; Mr. Chester W. Stribling</i>
<i>Nays:</i>	<i>None</i>
<i>Absent During Vote:</i>	<i>None</i>
<i>Abstention:</i>	<i>None</i>

RESOLUTION

A RESOLUTION TO AUTHORIZE THE ACCEPTANCE OF A CONSERVATION EASEMENT OVER THE PROPERTY OF CEDAR HILL SEVEN, LLC

WHEREAS, Cedar Hill Seven, LLC has proposed to donate a conservation easement over its property described as PIN-7907-16-6614, consisting of approximately 64.4197 acres, hereinafter “the Property;” and

WHEREAS, the Board of Supervisors has determined that the proposed easement is appropriate, in the public interest, and furthers the goals and objectives of its Comprehensive Plan; and

WHEREAS, the Board of Supervisors has determined that the proposed easement will preserve important agricultural and forestal lands and scenic and natural resources in a manner consistent with the Comprehensive Plan; and

WHEREAS, the Board of Supervisors hereby designates the Property as open-space under the authority granted by Chapter 17 of Title 10.1 of the Code of Virginia, 1950, as amended, the “Open-Space Land Act;” now, therefore, be it

RESOLVED by the Fauquier County Board of Supervisors this 14th day of December 2006, the Board finds as follows:

1. That the proposed easement preserves open-space lands in the County pursuant to the goals and objectives stated in the County's Comprehensive Plan and thereby advances a public purpose of the County; and
2. The restrictions contained in the proposed easement will preserve and protect in perpetuity the open-space values of the Property and will limit the uses of the Property to those uses which are consistent with and which will not adversely affect the open-space values described in the easement; and
3. The proposed easement will provide a significant public benefit to the citizens of Fauquier County and the Commonwealth of Virginia.

FURTHER, RESOLVED by the Fauquier County Board of Supervisors this 14th day of December, 2006 that the County Administrator and the County Attorney be, and are hereby, authorized and directed to accept the donation of a conservation easement under those terms generally set forth in the proposed easement attached to the agenda request for this item, subject to such revisions as may be deemed appropriate to the County Administrator and County Attorney.

A RESOLUTION TO AMEND THE RESOLUTION OF SEPTEMBER 14, 2006, TO APPROVE PROPOSED PUBLIC USES AND COMPLETE THE ACQUISITION OF THE ENTIRETY OF THE PUBLIC WATER SYSTEM OWNED BY MARSHALL WATER WORKS II, INC. AND SERVING MARSHALL, VIRGINIA

Mr. Atherton moved to adopt the following resolution. Mr. Graham seconded and, following discussion, the vote for the motion was unanimous, as follows:

<i>Ayes:</i>	<i>Mr. Harry F. Atherton; Mr. Raymond E. Graham; Mr. William G. Downey; Mr. Richard W. Robison; Mr. Chester W. Stribling</i>
<i>Nays:</i>	<i>None</i>
<i>Absent During Vote:</i>	<i>None</i>
<i>Abstention:</i>	<i>None</i>

RESOLUTION

A RESOLUTION TO AMEND THE RESOLUTION OF SEPTEMBER 14, 2006, TO APPROVE PROPOSED PUBLIC USES AND COMPLETE THE ACQUISITION OF THE ENTIRETY OF THE PUBLIC WATER SYSTEM OWNED BY MARSHALL WATER WORKS II, INC. AND SERVING MARSHALL, VIRGINIA

WHEREAS, the County, the Fauquier County Water and Sanitation Authority, and Marshall Water Works II, Inc. have agreed that the County should acquire the assets comprising the entirety of the public water system owned by Marshall Water Works II, Inc. and serving Marshall, Virginia; and

WHEREAS, the County intends to acquire, by condemnation, the assets comprising the entirety of the public water system owned by Marshall Water Works II, Inc. in order to convey

those assets to the Fauquier County Water and Sanitation Authority, to permit the Authority to operate, repair and improve such public water system, and to benefit the residents of Marshall, Virginia who are served by such public water system; and

WHEREAS, prior to the exercise of the power of eminent domain the County is required to conduct a public hearing; and

WHEREAS, the County (i) held a duly-advertised public hearing on September 14, 2006, at which all interested members of the public requesting to do so were permitted to speak, (ii) has considered the public comments, if any, presented at such public hearing, and (iii) has determined that the acquisition of such system, by condemnation, is necessary to provide water service to the residents of Marshall and should be approved as a public use in the best interest of the public; and

WHEREAS, the County has determined and is of the opinion that it is in the best interest of the County to take the property sought to be condemned for \$575,000.00, as the amount fixed as just compensation or damages on account of the taking of same; now, therefore, be it

RESOLVED by the Fauquier County Board of Supervisors this 14th day of December 2006, That the Board finds the proposed acquisition of the entirety of the public water system owned by Marshall Water Works II, Inc. and serving Marshall, Virginia, is necessary for the health and welfare of the residents of Marshall, and therefore the Board approves such acquisition, in the amount of \$575,000.00, as a necessary public use in the best interest of the public; and, be it

RESOLVED FURTHER, That the Board directs the acquisition, by condemnation, of the assets comprising the entirety of the public water system owned by Marshall Waterworks II, Inc. and serving Marshall, Virginia by condemnation; and, be it

RESOLVED FINALLY, That the County Administrator and County Attorney be, and are hereby, directed and authorized to take all necessary action to acquire, by condemnation, such assets of Marshall Waterworks II, Inc. through the filing of appropriate pleadings and are authorized to execute such documents as are necessary to complete such acquisition.

A RESOLUTION TO TRANSFER \$500,000 FROM THE AUBURN MIDDLE SCHOOL PROJECT TO THE CLAUDE THOMPSON ELEMENTARY SCHOOL PROJECT

Mr. Downey moved to adopt the following resolution. Mr. Robison seconded and, following discussion, the vote for the motion was unanimous, as follows:

<i>Ayes:</i>	<i>Mr. Harry F. Atherton; Mr. Raymond E. Graham; Mr. William G. Downey; Mr. Richard W. Robison; Mr. Chester W. Stribling</i>
<i>Nays:</i>	<i>None</i>
<i>Absent During Vote:</i>	<i>None</i>
<i>Abstention:</i>	<i>None</i>

RESOLUTION

A RESOLUTION TO TRANSFER \$500,000 FROM THE AUBURN MIDDLE SCHOOL PROJECT TO THE CLAUDE THOMPSON ELEMENTARY SCHOOL PROJECT

WHEREAS, County Policy requires any transfer of funds between Capital Fund projects to have the approval of the Board of Supervisors; and

WHEREAS, the School Division has requested transfer of \$500,000 from the Auburn Middle School Project to the Claude Thompson Elementary School Project to support additional costs; now, therefore, be it

RESOLVED, by the Fauquier County Board of Supervisors this 14th day of December 2006, That \$500,000 be, and is hereby, approved for transfer from the Auburn Middle School Project #4-302-066610-8712 to the Claude Thompson Elementary School Project #4-302-066610-8710.

SUPERVISORS' TIME

- Mr. Robison wished everyone a safe and enjoyable holiday.
- Mr. Downey stated he recently attended a press conference conducted by the Piedmont Environmental Council regarding proposed construction of Dominion Virginia power lines along the northern corridor of Fauquier County. Mr. Downey said he was encouraged to learn that the County's Congressional representation, as well as the two State Senators, are opposed to the proposal and are committed to proactively engaging in the process.
- Mr. Stribling thanked all of the citizens that serve on committees, and those that attend public meetings or otherwise communicate with the Board of Supervisors to share their views, concerns and advice. Mr. Stribling wished everyone a safe and Merry Christmas.
- Mr. Atherton wished everyone a happy and safe Christmas.
- Mr. Graham wished everyone a Merry Christmas and seasons greetings. Mr. Graham also urged people to be helpful, kind and concerned for their neighbors, and to be certain that family and friends are all safe and cared for.

ANNOUNCEMENTS

- Mr. McCulla announced that on January 4, 2007 at 5:00 PM, the Board of Supervisors will meet in the second floor conference room of the Warren Green Building to conduct its annual organizational meeting.

- Mr. McCulla announced that on January 11, 2007, the Board of Supervisors will convene for its next regularly scheduled meeting in the Warren Green Building meeting room.
- Mr. McCulla announced that on January 26, 2007 at 9:00 AM, the Board of Supervisors will conduct its annual retreat at the Inn at Vint Hill.

COMPREHENSIVE PLAN AMENDMENT – NEW BALTIMORE SERVICE DISTRICT

A public hearing was continued from November 9, 2006, to consider proposed amendments to the Comprehensive Plan Chapter 6 – New Baltimore Service District. Rick Carr, Director of Community Development, summarized refinements to the New Baltimore Service District Comprehensive Plan that are currently being considered. Kimberly Baird, Scott District, spoke on behalf of her neighbors with reference to their concerns about increased traffic and objections to the location under consideration for a Costco membership warehouse club chain store. Mr. Graham interjected that Costco is not part of the Service District Plan or the Comprehensive Plan and that no decision has been made yet by Costco, therefore, it is not relevant to this public hearing. Robert Dunleavy, Scott District, formerly on the New Baltimore Service District Plan citizen review committee, stated that the Committee's primary concerns addressed sewage capacity, as well as the widening of Route 215. Peter Eltringham, Scott District, President of Fox Farm Homeowners' Association, expressed concern regarding transportation problems and preservation of historic battlefields along Route 29. No one else spoke. The public hearing was closed. Mr. Downey moved to postpone action on the matter until the next regular meeting on January 11, 2007. Mr. Robison seconded and, following discussion, the motion was carried by acclamation, as follows:

Ayes:	<i>Mr. Harry F. Atherton; Mr. Raymond E. Graham; Mr. William G. Downey; Mr. Richard W. Robison; Mr. Chester W. Stribling</i>
Nays:	<i>None</i>
Absent During Vote:	<i>None</i>
Abstention:	<i>None</i>

ELIMINATION OF COUNTY DECALS

A public hearing was held to consider elimination of the County decal, change the decal fee to a vehicle registration fee, and establish an alternative personal property filing process as permitted by State law. Ross D'Urso, Commissioner of the Revenue, summarized the proposal. Glenn Millner, Lee District, requested codification of exemption for qualified antique and/or classic vehicles. Joe Yeager, Orange County, expressed concern that Fauquier County residents would be pulled over in other jurisdictions for failure to display a County decal. Beth Ledgerton, Treasurer, responded that 37 jurisdictions currently do not require decals, 23 jurisdictions are in the process of eliminating decals, and five jurisdictions have a permanent decal. No one else spoke. The public hearing was closed. Mr. Atherton moved to adopt the following Ordinance. Mr. Robison seconded and, following discussion, the vote for the motion was unanimous, as follows:

Ayes: **Mr. Harry F. Atherton; Mr. Raymond E. Graham; Mr. William G. Downey; Mr. Richard W. Robison; Mr. Chester W. Stribling**
Nays: **None**
Absent During Vote: **None**
Abstention: **None**

ORDINANCE

AN ORDINANCE REPEALING CHAPTER 13, ARTICLE IV, SECTIONS 13-51, ET.SEQ, AND REENACTING AN AMENDED CHAPTER 13, ARTICLE IV, SECTIONS 13-51, ET.SEQ, OF THE CODE OF FAUQUIER PROVIDING FOR THE ELIMINATION OF THE COUNTY DECAL AND ESTABLISHING A VEHICLE LICENSE REGISTRATION FEE AND FURTHER AMENDING CHAPTER 8, ARTICLE I, SECTION 8-1 TO PROVIDE AN ALTERNATIVE PERSONAL PROPERTY FILING PROCEDURE FOR MOTOR VEHICLES

WHEREAS, the Board of Supervisors of Fauquier County adopted an Ordinance pursuant to Titles 46.2 and 58.1 of the Code of Virginia, 1950, for the administration of County Vehicle License under Chapter 13, Article IV, sections 13-51 et.seq, and the filing of personal property returns under Chapter 8, Article I, section 8-1 of the Code of Fauquier respectively; and

WHEREAS, Title 46.2-752 (G) provides that the County is not required to issue a decal or any other tangible evidence of a local license to be displayed on the licensed vehicle if the County's Ordinance does not require display of a decal or other evidence of payment; and

WHEREAS, Title 58.1-3518.1 permits an alternative Personal Property filing process that removes the requirement for annual reporting of motor vehicle and trailers if there has been no change in situs or status since the last filing; and

WHEREAS, the local governing body may adopt a local Ordinance to accommodate the enabling legislation; and

WHEREAS, after due notice and public hearing, the Board of Supervisors has determined that these changes are for the benefit of the citizens of Fauquier County; now, therefore, be it

ORDAINED by the Board of Supervisors of Fauquier County this 14th day of December 2006, That effective January 1, 2007 Chapter 13, Article IV, Sections 13-51, et.seq, is hereby repealed; and, be it

ORDAINED FURTHER, That Chapter 13, Article IV, Sections 13-51, et.seq, is hereby reenacted effective January 1, 2007, as Option 2 of the Ordinance proposals; and, be it

ORDAINED FINALLY, That Chapter 8, Article I, Section 8-1, is hereby amended effective January 1, 2007, as follows:

ARTICLE IV. COUNTY VEHICLE LICENSE REGISTRATION FEE

Sec. 13-51. License registration fee required; exceptions.

The county hereby levies and assesses a license registration fee on every motor vehicle, including, but not limited to, automobiles and trucks having a situs pursuant to § 58.1-3511, Code of Virginia, except:

- (1) Vehicles used by a dealer or manufacturer for sales purposes;
- (2) Vehicles are used as common carriers of persons or property operated between cities or towns in this state, and not in intra-city transportation, or between cities or towns on the one hand and points and places outside the cities and towns on the other and not in intra-city transportation.
- (3) Vehicles used by an active member of volunteer fire and rescue companies of the county or an active member of the sheriff's auxiliary deputy program, provided, however, that active members of any volunteer fire and rescue companies shall provide to the treasurer at the time of declaration of personal property a written certification by the chief of the volunteer company that said applicant is an active member, and is a member whose name appears in the book of "Volunteer Fire Fighters" kept by the clerk of the circuit court, and provided further that any auxiliary deputy shall provide a certificate from the sheriff stating that the auxiliary deputy is an active volunteer in the sheriff's auxiliary deputy program. However, the exception shall apply to no more than one (1) vehicle.
- (4) Vehicles owned or leased by a person who is sixty-five (65) years of age or older shall be entitled to a fifty (50) percent reduction in the license registration fee assessed on that vehicle, provided that no such discount shall be available for more than one (1) vehicle owned or leased by the same person.
- (5) Vehicles owned by former members of volunteer rescue squads and former members of volunteer fire departments having at least ten (10) years of service in the county. However, the exception shall apply to no more than one (1) vehicle.

(Ord. No. 86-4, 11-18-86; Ord No. 87-10, 11-12-87; Ord No. 91-9, 12-17-91; Ord. No. 94-8, 10-4-94; Ord. No. 96-3, 4-16-96; Ord. No. 04-1, 3-15-04; Ord. No. 06-02, 8-10-06)

Sec. 13-52. Amount of fee- motor vehicles; motorcycles; paid to.

The cost of the license registration fee required by this article shall be twenty-five dollars (\$25.00); except fifteen dollars (\$15.00) for motorcycles and similar two-wheel vehicles. The license registration fee shall be paid to the Fauquier County Treasurer. Purchasers of new or used automobiles shall be billed for such fee on the supplemental bill for such vehicle as may be required.

(Ord. No. 86-4, 11-18-86; Ord. No. 92-1, 1-7-92; Ord. No. 94-8, 10-4-94)

Sec. 13-52.1 Antique motor vehicles.

Upon receipt of an application on a form prescribed by the treasurer, the treasurer may recognize owners of antique motor vehicles as defined in Code of Virginia, § 46.2-100, as amended. There shall be

a one-time license registration fee of \$5.00 for the antique motor vehicle while title to the antique vehicle is vested in the applicant.

Sec. 13-53. Disposition of fees.

The revenue derived from all county motor vehicles' license registration fees shall be applied to general county purposes.

(Ord. No. 94-8, 10-4-94)

Sec. 13-54. Limitations.

This article is subject to the limitations on the imposition of such license registration fees by the county as are set forth in §§ 46.2-663, 46.2-683, 46.2-750, 46.2-752 and 46.2-755 of the Code of Virginia, as amended.

(Ord. No. 90-1, 5-15-90; Ord. No. 94-8, 10-4-94)

Sec. 13-55. Vehicle registration fee year.

The vehicle registration year shall commence on January 1 of each year. The annual fee shall be payable October 5 of every year or the billing date for subsequent assessments made for that calendar year. The fee shall be collected as taxes are collected.

(Ord. No. 92-11, 9-15-92; Ord. No. 94-8, 10-4-94 Ord. No. 06-___)

Sec. 13-56. Transfer of licenses registration fees; refunds.

The license Registration fee shall not be transferable between persons or vehicles. There shall be no refund of the license registration fee imposed herein for vehicles sold or otherwise disposed of during the tax year.

(Ord. No. 94-8, 10-4-94)

Sec. 13-57. Collection.

The Treasurer shall, after the due date for any license registration fee required under this section, collect such license registration fee in accordance with the provisions of Section 58.1-3919 of the Code of Virginia and any other applicable state law. Additionally the Treasurer shall have the authority to take any action authorized by Section 46.2-752 of the Code of Virginia.

ARTICLE I. IN GENERAL

Section 8-1. Filing personal property returns.

- (A) Personal property tax returns for all property with a situs in Fauquier County as of January 1 including mobile homes, machinery and tools shall be filed with the Commissioner of the Revenue no later than March 15 of the tax year.
- (B) Motor vehicles and trailers that acquired a situs within the county or are transferred to a new owner in the county after January 15, for which the deadline for filing a return shall be sixty (60) days following the date of such transfer or acquisition of situs in the county.

- (C) Residents of all towns within Fauquier County must file personal property tax returns with the Commissioner of the Revenue in accord with the above requirements.
- (D) The Commissioner of the Revenue shall prescribe forms for the reporting of tangible personal property subject to taxation by this Article.

Section 8-1.1 Filing personal property tax return for motor vehicles and trailers.

- (A) Notwithstanding the provisions of section 8-1, any person who has previously filed a personal property tax return for any motor vehicle or trailer for which there has been no change in situs or status as hereinafter set forth in this section shall not be required to file another personal property tax return on such vehicle. The annual assessment and taxation of motor vehicles or trailers for which the owner or owners have previously filed a personal property tax return whose name or address has not changed and whose vehicle(s) or trailer(s) has had no change in situs since the previous filing shall be based on the personal property tax return filed the previous year.
- (B) A new personal property tax return shall be filed with the Commissioner of the Revenue as provided under section 8-1 whenever there is:
 - (1) A change in the name or address of the person or persons owning or leasing taxable personal property.
 - (2) A change in the situs of personal property.
 - (3) Any action which causes a motor vehicle or trailer to acquire situs in Fauquier County during the tax year and for which no personal property tax return has been filed.
 - (4) Any other change affecting the assessment or levy of the personal property tax on motor vehicles or trailers for which a tax return has been filed previously.
- (C) Any owner of a motor vehicle or trailer who has a change in situs or in status as enumerated under paragraph (B), subsection (1), (2), (3), and (4), shall notify the Commissioner of the Revenue within 60 days of such change by filing a personal property tax return on the prescribed form.
- (D) Any owner of a motor vehicle or trailer which acquires situs in the County shall file a personal property tax return by the due dates prescribed under section 8-1 of this Article. Persons who fail to file a tax return by the prescribed due dates shall incur a penalty for late filing in accord with section 8-1.1.1.
- (E) Personal Property tax returns for taxable properties other than motor vehicles or trailers shall be filed annually in accord with section 8-1.

Section 8-1.1.1 Late filing penalties.

- (A) Any person failing to file such return for all tangible personal property subject to the tax on or before the due date for such return shall incur a penalty thereon of ten percent (10%) of the tax assessable on such return which shall be added to the amount of taxes or levies due from such taxpayer and which, when collected by the treasurer, shall be accounted for in his settlements; provided, however, that the penalty shall in no case exceed the amount of tax assessable. The assessment of a penalty under this section shall not be deemed a defense to any criminal prosecution for failing to make the return of taxable property as required by law or this section.
- (B) An extension in time, not to exceed ninety (90) days, for filing tangible business personal property, machinery and tools may be granted by the Commissioner of the Revenue whenever good cause exists. Application for such extension of time must be made prior to the regular March 15 filing deadline. The commissioner shall keep a record of every such extension. Requests received after March 15 shall not be granted unless it is documented that the delay was in no way the fault of the

taxpayer. Failure to file returns within the extended time will cause the taxpayer to be treated the same as if no extension had been granted.

(C) Penalty for failure to file a return or pay a tax levied under section 8-1 shall be administered pursuant to section 58.1-3916 of the Code of Virginia.

A RESOLUTION TO AMEND THE FY 2007 ADOPTED BUDGET IN THE AMOUNT OF \$1,253,093

A public hearing was held to consider various budget related issues in the amount of \$899,932 in appropriations and \$353,161 in transfers for FY 2007. Bryan Tippie, Budget Director, summarized the proposed amendments. No one else spoke. The public hearing was closed. Mr. Downey moved to adopt the following resolution. Mr. Stribling seconded and, following discussion, the vote for the motion was unanimous, as follows:

Ayes: Mr. Harry F. Atherton; Mr. Raymond E. Graham; Mr. William G. Downey; Mr. Richard W. Robison; Mr. Chester W. Stribling
Nays: None
Absent During Vote: None
Abstention: None

RESOLUTION

A RESOLUTION TO AMEND THE FY 2007 ADOPTED BUDGET
IN THE AMOUNT OF \$1,253,093

WHEREAS, the Fauquier County Board of Supervisors is charged by the Code of Virginia with the preparation of an annual budget for Fauquier County; and

WHEREAS, on March 30, 2006, adopted the Fauquier County FY 2007 Budget; and

WHEREAS, during the course of the fiscal year certain events occur which necessitate changing the budget plan by increasing or decreasing the total budget; and

WHEREAS, at its November meeting the Finance Committee has recommended for FY 2007 budget adjustments of \$1,253,093 for the purposes set forth below; and

WHEREAS, on December 14, 2006, a public hearing was held; now, therefore, be it

RESOLVED by the Fauquier County Board of Supervisors this 14th day of December 2006, That the FY 2007 Budget be, and is hereby, amended in the amount of \$1,253,093 as follows:

Source	FROM Code	Amount	Department	TO Code	Amount
FY 2007					
Environmental	3-513-419000-0020	\$60,497	Environmental	4-513-042710-1101	\$45,312
Services Fund			Services	4-513-042710-2100	\$3,466
Balance				4-513-042710-2210	\$5,664

				4-513-042710-2310	\$5,421
				4-513-042710-2400	\$634
Fund Balance	3-100-419000-0010	\$460,000	Parks & Recreation (Leeper Property)	4-302-71140-8524	\$460,000
Loan Refinancing	3-285-189900-0031	\$23,935	County Administration - Affordable Housing – Botha Project	4-285-081300-3840	\$23,935
Non-departmental Reserve	4-100-091400-9614	\$289,000	Budget Office - Affordable Housing	4-285-081300-3840	\$289,000
Local – Mental Health Association	3-205-189915-0010	\$31,500	School Division	4-205-06220-1140- 900-000	\$31,500
Contingency Reserve	4-100-091400-9999	\$35,000	Sheriff's Office	4-302-31200-8205	\$35,000
General Fund	4-100-011010-2310	\$652	Non-departmental	4-100-091400-9601	\$335,361
Department's	4-100-012110-2310	\$3,700	Salary Reserve –		
Employee Benefits	4-100-012111-2310	\$652	Budget Office		
(Transfer)	4-100-012210-2310	\$3,260			
	4-100-012310-2310	\$14,996			
	4-100-012410-2310	\$10,432			
	4-100-012511-2310	\$11,084			
	4-100-012600-2310	\$6,520			
	4-100-12650-2310	\$652			
	4-100-12721-2310	\$1,304			
	4-100-12722-2310	\$9,128			
	4-100-12723-2310	\$3,912			
	4-100-12840-2310	\$2,608			
	4-100-12900-2310	\$2,608			
	4-100-13200-2310	\$1,956			
	4-100-21100-2310	\$652			
	4-100-21500-2310	\$652			
	4-100-21600-2310	\$10,432			
	4-100-21700-2310	\$3,912			
	4-100-21710-2310	\$1,304			
	4-100-21720-2310	\$1,304			
	4-100-22100-2310	\$6,303			
	4-100-31200-2310	\$78,189			
	4-100-32420-2310	\$20,828			
	4-100-33400-2310	\$0			
	4-100-43410-2310	\$1,304			
	4-100-43412-2310	\$22,820			
	4-100-43413-2310	\$5,868			
	4-100-43418-2310	\$6,520			
	4-100-53110-2310	\$27,674			
	4-100-53500-2310	\$1,956			
	4-100-53510-2310	\$652			
	4-100-71110-2310	\$3,960			
	4-100-71120-2310	\$2,956			
	4-100-71130-2310	\$4,564			
	4-100-71140-2310	\$5,713			
	4-100-71160-2310	\$652			
	4-100-73100-2310	\$22,889			
	4-100-81200-2310	\$26,229			
	4-100-81500-2310	\$2,608			
	4-100-81800-2310	\$652			
	4-100-91600-2310	\$1,304			

Contingency Reserve 4-100-091400-9999
(Transfer)

\$17,800 Finance

4-100-012240-3120

\$17,800

TOTAL

\$1,253,093

\$1,253,093

REVISION OF FAUQUIER COUNTY CODE SECTIONS 4-1 AND 4-26

A public hearing was held to obtain citizen input concerning a proposed revision of Fauquier County Code Sections 4-1 and 4-26 regarding dangerous dogs to bring it into conformance with recent amendments to the Code of Virginia. Mr. Graham summarized the proposed revision. No one else spoke. The public hearing was closed. Mr. Graham moved to adopt the following Ordinance. Mr. Downey seconded and, following discussion, the vote for the motion was unanimous, as follows:

Ayes: *Mr. Harry F. Atherton; Mr. Raymond E. Graham; Mr. William G. Downey; Mr. Richard W. Robison; Mr. Chester W. Stribling*
Nays: *None*
Absent During Vote: *None*
Abstention: *None*

ORDINANCE

AN ORDINANCE TO AMEND SECTIONS 4-1 AND 4-26 OF THE FAUQUIER COUNTY CODE PERTAINING TO DANGEROUS AND VICIOUS DOGS

WHEREAS, Section 3.1-796.93:1 of the Code of Virginia authorizes counties to adopt ordinances regulating dangerous dogs and vicious dogs; and

WHEREAS, the Board of Supervisors, after due notice and public hearing, has determined that it is in the best interest of the health, safety, and welfare of the citizens of Fauquier County to adopt this Ordinance; now, therefore, be it

ORDAINED, by the Fauquier County Board of Supervisors this 14th day of December 2006, That Sections 4-1 and 4-26 of the Code of Fauquier County be, and are hereby, amended, which Sections shall read as follows:

Sec. 4-1. Definitions.

Dangerous dog. The term “dangerous dog” means any canine or canine crossbreed which has bitten, attacked, or inflicted injury on a person or companion animal that is a dog or cat. ~~or killed a companion animal; or~~ However, when a dog attacks or bites ~~another~~ a companion animal that is a dog or cat, the attacking or biting dog shall not be deemed dangerous: (i) if no serious physical injury as determined by a licensed veterinarian has occurred to the ~~other~~ dog or cat as a result of the attack or bite, or (ii) both ~~dogs~~ animals are owned by the same person (iii) if such attack occurs on the property of the attacking or biting dog’s owner or custodian, or (iv) for other good cause as determined by the court. No dog shall be found to be a dangerous dog as a result of biting, attacking or inflicting injury on ~~another~~ a

dog or cat while engaged with an owner or custodian as part of lawful hunting or participating in an organized, lawful dog handling event.

Sec. 4-26. Dangerous or vicious dogs.

(a) Any law-enforcement officer or animal warden control officer who has reason to believe that a canine or canine crossbreed within his jurisdiction is a dangerous dog or vicious dog shall apply to a magistrate or the jurisdiction for the issuance of a summons requiring the owner or custodian, if known, to appear before a general district court at a specified time. The summons shall advise the owner of the nature of the proceeding and the matters at issue. If a law-enforcement officer successfully makes an application for the issuance of a summons, he shall contact the local animal control officer and inform him of the location of the dog and the relevant facts pertaining to his belief that the dog is dangerous or vicious. The animal ~~warden control officer~~ or owner shall confine the animal until such time as evidence shall be heard and a verdict rendered. If the animal control officer determines that the owner or custodian can confine the animal in a manner that protects the public safety, he may permit the owner or custodian to confine the animal until such time as evidence shall be heard and a verdict rendered. The court, through its contempt powers, may compel the owner, custodian or harbinger of the animal to produce the animal. If, after hearing the evidence, the court finds that the animal is a dangerous dog, the court shall order the animal's owner to comply with the provisions of the this ordinance. If, after hearing the evidence, the court finds that the animal is a vicious dog, the court shall order the animal euthanized in accordance with the provisions of Section 3.1-796.119 of the Code of Virginia, as amended.

(b) No canine or canine crossbreed shall be found to be a dangerous dog or vicious dog solely because it is a particular breed, nor ~~shall the local governing body prohibit~~ is the ownership of a particular breed of canine or canine crossbreed prohibited. No animal shall be found to be a dangerous dog or vicious dog if the threat, injury or damage was sustained by a person who was (i) committing, at the time, a crime upon the premises occupied by the animal's owner or custodian, (ii) committing, at the time, a willful trespass ~~or other tort~~ upon the premises occupied by the animal's owner or custodian, or (iii) provoking, tormenting, or physically abusing the animal, or can be shown to have repeatedly provoked, tormented, abused, or assaulted the animal at other times. No police dog which was engaged in the performance of its duties as such at the time of the acts complained of shall be found to be a dangerous dog or a vicious dog. No animal ~~which that~~, at the time of the acts complained of, was responding to pain or injury, or was protecting itself, its kennel, its offspring, or a person, or its owner or owner's or custodian's property, shall be found to be a dangerous dog or a vicious dog.

(c) The owner of any animal found by a court to be a dangerous dog shall, within ten (10) days of such finding, obtain a dangerous dog registration certificate from the local animal warden control officer for a fee of fifty dollars in addition to other fees that may be authorized by law. The local animal ~~warden control officer~~ shall also provide the owner with a uniformly designed tag which identifies the animal as a dangerous dog. The owner shall affix the tag to the animal's collar and ensure that the animal wears the collar and tag at all times. All certificates obtained pursuant to this subdivision shall be reviewed annually for the same fee and in the same manner as the initial certificate was obtained. The animal control officer shall provide a copy of the dangerous dog registration certificate and verification of compliance to the State Veterinarian.

(d) All certificates or renewals thereof required to be obtained under this section shall only be issued to persons eighteen years of age or older who present satisfactory evidence (i) of the animal's current rabies vaccination, if applicable, and (ii) that the animal is and will be confined in a proper enclosure, or is and will be confined inside the owner's residence, or is and will be muzzled and confined inside the owner's fenced-in yard until the proper enclosure is constructed. In addition, owners who apply for certificates or renewals thereof under this section shall not be issued a certificate or renewal thereof unless they present satisfactory evidence that (i) their residence is and will continue to be posted with clearly visible signs warning both minors and adults of the presence of a dangerous dog on the property, and (ii) the animal has been permanently identified by means of a tattoo on the inside thigh or by electronic implantation. All certificates or renewals thereof required to be obtained under this ordinance shall only be issued to

persons who present satisfactory evidence that the owner has liability insurance coverage, to the value of at least \$100,000, that covers animal bites. The owner may obtain and maintain a bond in surety, in lieu of liability insurance, to the value of at least \$100,000.

(e) While on the property of its owner, an animal found by a court to be a dangerous dog shall be confined indoors or in a securely enclosed and locked structure of sufficient height and design to prevent its escape or direct contact with or entry by minors, adults, or other animals. The structure shall be designed to provide the animal with shelter from the elements of nature. When off its owner's property, an animal found by a court to be a dangerous dog shall be kept on a leash and muzzled in such a manner as not to cause injury to the animal or interfere with the animal's vision or respiration, but so as to prevent it from biting a person or another animal.

(f) If the owner of an animal found by a court to be a dangerous dog is a minor, the custodial parent or legal guardian shall be responsible for complying with all requirements of this section.

(g) The owner of any dog found to be a dangerous dog shall register the animal with the Commonwealth of Virginia Dangerous Dog Registry, as established under § 3.1-796.93:3 of the Code of Virginia, as amended, within 45 days of such a finding by a court of competent jurisdiction. After an animal has been found by a court to be a dangerous dog, the animal's owner shall immediately, upon learning of same, notify the local animal control authority if the animal (i) is loose or unconfined; (ii) bites a person or attacks another animal; (iii) is sold, given away, or dies; ~~or (iv) has been moved to a different address.~~ The owner shall also cause the local animal officer to be promptly notified of (i) the names, addresses, and telephone numbers of all owners; (ii) all of the means necessary to locate the owner and the dog at any time; (iii) any complaints or incidents of attack by the dog upon any person or cat or dog; (iv) any claims made or lawsuits brought as a result of any attack; (v) tattoo or chip identification information or both; and (vi) proof of insurance or surety bond. Any owner of a dangerous dog who relocates to a new address shall, within 10 days of relocating, provide written notice to the appropriate local animal control authority for the old address from which the animal has moved and the new address to which the animal has been moved.

(h) The owner of any animal which has been found by a court to be a dangerous dog who willfully fails to comply with the requirements of the ordinance shall be guilty of a Class 1 misdemeanor.

(i) Any owner or custodian of a canine or canine crossbreed or other animal is guilty of a:

1. Class 2 misdemeanor if the canine or canine crossbreed previously declared a dangerous dog pursuant to this section, when such declaration arose out of a separate and distinct incident, attacks and injures or kills a cat or dog that is a companion animal belonging to another person;
or

2. Class 1 misdemeanor if the canine or canine crossbreed previously declared a dangerous dog pursuant to this section, when such declaration arose out of a separate and distinct incident, bites a human being or attacks a human being causing bodily injury.

The provisions of this subsection shall not apply to any animal that, at the time of the acts complained of, was responding to pain or injury, or was protecting itself, its kennel, its offspring, a person, or its owner's or custodian's property, or when the animal is a policy dog that is engaged in the performance of its duties at the time of the attack.

(j) All fees collected pursuant to the ordinance, less the costs incurred by the animal control authority in producing and distributing the certificates and tags required by the ordinance, shall be paid into a special dedicated fund in the treasury of the county for the purpose of paying the expenses of any training course required under Section 3.1-796.104:1 of the Code of Virginia, as amended.

(Ord. No. 95-30, 10-3-95, Ord. No. 05-11, 09-08-05, Ord. No. 06-____, 12-14-06)

State law references: Authority to control dangerous or vicious dogs, § 3.1-796.93.1.

**REVISION OF FAUQUIER COUNTY'S EROSION AND SEDIMENTATION
CONTROL ORDINANCE, FAUQUIER COUNTY CHAPTER 11, DESIGN STANDARDS
MANUAL**

A public hearing was held to obtain citizen input concerning a proposed revision of Fauquier County Code Chapter 11 to bring the County Ordinance more into conformance with the Department of Recreation and Conservation model ordinance. Mr. Graham summarized the proposed revision. No one else spoke. The public hearing was closed. Mr. Downey moved to adopt the following Ordinance. Mr. Graham seconded and, following discussion, the vote for the motion was unanimous, as follows:

Ayes: Mr. Harry F. Atherton; Mr. Raymond E. Graham; Mr. William G. Downey; Mr. Richard W. Robison; Mr. Chester W. Stribling
Nays: None
Absent During Vote: None
Abstention: None

ORDINANCE

**AN ORDINANCE TO AMEND THE FAUQUIER COUNTY DESIGN STANDARDS
MANUAL AND CHAPTER 11 OF THE FAUQUIER COUNTY CODE PERTAINING TO
EROSION AND SEDIMENT CONTROL**

WHEREAS, Section 10.1-562.C. of the Code of Virginia authorizes counties to adopt and administer an erosion and sediment control program; and

WHEREAS, the Board of Supervisors, after due notice and public hearing, has determined that it is in the best interest of the health, safety and welfare of the citizens of Fauquier County to adopt this Ordinance; now, therefore, be it

RESOLVED by the Fauquier County Board of Supervisors this 14th day of December 2006, That the Fauquier County Design Standards Manual and Chapter 11 of the Fauquier County Code be, and are hereby, amended, which Sections shall read as follows:

Design Standards Manual 1st Edition
Design Standards Manual Chapter 2: Drainage D-1
Chapter 2: Drainage

Design Standards Manual 1st Edition

Design Standards Manual Chapter 2: Drainage D-2

200 Introduction	D-3
201 General Provisions	D-3
201.1 Statutory Authority	D-3
201.2 Purpose	D-3
201.3 Applicability	D-3
201.4 Compatibilty with Other Permit and Ordinance Requirements	D-4
201.5 Severability	D-4
201.6 Reference Documents	D-4
201.7 Program Administration	D-5
201.8 General Drainage Requirements	D-5
202 Definitions	D-8
203 Stormwater Management Program Permit Procedures and Req.	D-13
203.1 Permit Required	D-13
203.2 Stormwater Management Plan Required	D-13
203.3 Plan Inactivity	D-16
203.4 Stormwater Facility Maintenance Agreements	D-16
203.5 Performance Guarantees	D-17
203.6 SWM/BMP Review Fees	D-18
203.7 SWM/BMP Final Plan Submittal Review Application	D-18
204 Design Criteria for Stormwater Management	D-18
204.1 General	D-19
204.2 Water Quality	D-19
204.3 Insect Management	D-19
205 Construction Inspection	D-20
205.1 Post-Construction Inspection and As-Built Plans	D-20
206 Maintenance Inspection and Repair of Stormwater Facilities	D-20
206.1 Maintenance Inspection of Stormwater Facilities	D-20
207 Enforcement and Penalties	D-20
207.1 Notice of Violation	D-20
207.2 Stop Work Orders	D-21
207.3 Civil and Criminal Penalties	D-21
207.4 Holds on Occupancy Permits	D-22
208 Erosion and Sediment Control Requirements	D-22
208.1 Purpose of Section	D-22
208.2 Definitions	D-22
208.3 Local program generally	D-25
208.4 Regulation of land disturbing activities	D-26
208.5 Action on erosion and sediment control plans	D-27
208.6 Application for land disturbing permit; fees	D-28
208.7 Approved plan required for issuance of permits; certification; bonding of performance	D-28
208.8 Monitoring, reports and inspections	D-29
208.9 Administrative appeal; judicial review	D-30
208.10 Penalties; injunctions and other legal actions	D-30

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SECTION 200 Introduction

The Board of Supervisors desires to protect and preserve the physical beauty, historical heritage and environmental integrity of the County. The Board recognizes that development may degrade the waters through increasing flooding, stream channel erosion, and the transport and disposition of waterborne pollutants. Therefore, the County finds it is in the public interest to enable the establishment of stormwater management programs.

SECTION 201 General Provisions

201.1. Statutory Authority

The Virginia Stormwater Management Law (“Law”, also known as the Virginia Stormwater Management Act or “Act”) Title 10.1, Chapter 6, Article 1.1 of the Code of Virginia, enables localities to adopt, by ordinance, a stormwater management program consistent with state regulations promulgated pursuant to the Law.

201.2. Purpose

The purpose of Sections 201 through 207 is to establish minimum stormwater management requirements and controls to protect properties, safeguard the general health, safety, and welfare of the public residing in watersheds within this jurisdiction, and protect aquatic resources. These sections seek to meet that purpose through the following objectives:

1. Require that land development and land conversion activities control the after development runoff characteristics, as nearly as practicable, to the pre-development runoff characteristics in order to reduce the magnitude and frequency of flooding, siltation, stream bank erosion, and property damage;
2. Establish minimum design criteria for the protection of properties and aquatic resources downstream from land development and land conversion activities from damages due to increases in volume, velocity, frequency, duration, and peak flow rate of storm water runoff;
3. Establish minimum design criteria for measures to minimize nonpoint source pollution from stormwater runoff which would otherwise degrade water quality; and
4. To reduce flood damage in an effort to safeguard public health, safety and property.

201.3. Applicability

This chapter shall be applicable to all subdivision, site plan, or land use conversion applications, unless eligible for an exception by the Board of Supervisors or its designee. This chapter also applies to land development activities that are smaller than the minimum applicable criteria if such activities are part of a larger common plan of development that meets the applicability criteria, even though multiple separate and distinct land development activities may take place at different times on different schedules.

To prevent the adverse impacts of stormwater runoff, the county has developed a set of performance standards that must be met at all development sites. These standards apply to any land development or land use conversion activity disturbing 10,000 square feet or more of land.

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Economic hardship is not sufficient reason to grant an exception from the requirements of this chapter.

The following activities are exempt from this chapter:

1. Permitted surface or deep mining operations and projects, or oil and gas operations and projects conducted under the provisions of Title 45.1 of the Virginia Stormwater Management Act;
2. Tilling, planting or harvesting of agricultural, horticultural, or forest crops;
3. Single-family residences separately built and not part of a subdivision, including additions or modifications to existing single-family detached residential structures;
4. Land development projects that disturb less than 10,000 square feet of land area; and
5. Linear development projects, provided that (i) less than 10,000 square feet of land will be disturbed per outfall or watershed, (ii) there will be insignificant increases in peak flow rates, and (iii) there are no existing or anticipated flooding or erosion problems downstream of the discharge point.

Further the following activities are exempt from Sections 203 and 204 of this chapter, unless otherwise required is Section 201.8 of this chapter.

1. Family transfers, administrative and large lot subdivisions.
2. Residential subdivisions in which all lots are greater than 3 acres or residential subdivisions with a total of 6 or fewer lots. If the Residue has an existing house, drainfield, etc. on it and no new construction is going to occur, then it does not count as a lot for this requirement.

201.4. Compatibility with Other Permit and Ordinance Requirements

This chapter is not intended to interfere with, abrogate, or annul any other ordinance, rule or regulation, statute, or other provision of law. The requirements of this chapter should be considered minimum requirements, and where any provision of this chapter imposes restrictions different from those imposed by any other ordinance, rule or regulation, or other provision of law, whichever provisions are more restrictive or impose higher protective standards for human health or the environment shall be considered to take precedence.

201.5. Severability

If the provisions of any article, section, subsection, paragraph, subdivision or clause of this chapter shall be judged invalid by a court of competent jurisdiction, such order of judgment shall not affect or invalidate the remainder of any article, section, subsection, paragraph, subdivision or clause of this chapter.

201.6. Reference Documents

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The latest edition of the following documents shall be utilized for the purposes of establishing design guidelines, which are not specifically detailed in this document but are included by this reference;

1. “Virginia Stormwater Management Handbook”, prepared by Virginia Department of Conservation and Recreation, Chapters 3-6.
2. “Northern Virginia BMP Handbook: A Guide to Planning BMP’s in Northern Virginia”, prepared by the Northern Virginia Planning District Commission and the Engineers and Surveyors’ Institute.
3. “Virginia Erosion and Sediment Control Handbook”, prepared by the Virginia Department of Conservation and Recreation.

Other design criteria may be accepted solely at the discretion of the ~~p~~Program ~~a~~Administrator. Sufficient support material to document the methodology will be required.

201.7. Program Administration

The Board of Supervisors designates the County Administrator or his designee as the ~~P~~program ~~A~~administrator.

201.8.General Drainage Requirements

(see also appendix)

1. Determination of flooding and channel erosion impacts to receiving streams and/or drainage ways due to land development projects shall be measured at each point of discharge from the development project and such determination shall include any runoff from the balance of the watershed which also contributes to that point of discharge.

A. Flooding - Calculations for determining flooding shall be submitted in accordance with the following:

1. Downstream properties and waterways shall be protected from damages from localized flooding due to increases in volume, velocity and peak flow rate of stormwater runoff in accordance with the minimum design standards set out in this section.
2. The 2 and 10-year post-developed peak rate of runoff from the development site shall not exceed the 2 and 10-year pre-developed peak rate of runoff.
3. In areas of streambeds subject to inundation with 100 acres or more of watershed, 100-year flood water surface elevations shall be computed. Drainage easements must be designated on site to preserve the inundation zone. Calculations shall be based on land use as outlined in the Comprehensive Plan.
4. All requirements as set forth in MS-19 and TB-1 must be met.

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5. Linear development projects shall not be required to control postdeveloped stormwater runoff for flooding, if there is no net increase in impervious area, except in accordance with a watershed or regional stormwater management plan.

B. Stream Channel Erosion - To protect stream channels from degradation, specific channel protection techniques shall be provided as prescribed in the Virginia Stormwater Management Handbook and the Virginia Erosion and Sediment Control Regulations in accordance with the following:

1. Properties and receiving waterways downstream of any land development project shall be protected from erosion and damage due to increases in volume, velocity and frequency of peak flow rate of stormwater runoff in accordance with the minimum design standards set out in this section (see appendix).

2. The ~~Department of Community Development plan approving authority~~ shall require compliance with Minimum Standard 19 of 4 VAC 50-30- 40 of the Erosion and Sediment Control Regulations, promulgated pursuant to Article 4 (§ 10.1-560 et seq.) of Chapter 5 of Title 10.1 of the Code of Virginia.

~~3.2.~~ Natural drainage/channel characteristics and drainage divides shall be preserved to the maximum extent practicable. Drainage analyses shall be considered within each drainage area.

~~4.3.~~ Land development projects shall comply with the Virginia Erosion and Sediment Control Law and attendant regulations and the County Soil Erosion and Sediment Control Ordinance.

~~5.4.~~ Construction of drainage improvements, stormwater management facilities, or modifications to drainage ways and channels shall comply with all applicable laws and regulations. The applicant shall assure that all applicable environmental permits have been acquired for the project prior to approval of the final plan. Evidence of approval of all necessary permits, such as, but not limited to: US Army Corps of Engineers (COE), Virginia Department of Environmental Quality (DEQ), Virginia Department of Conservation and Recreation (DCR), Virginia Marine Resources Commission (VMRC), etc. shall be provided.

~~6.5.~~ Construction of drainage improvements, stormwater management facilities, and/or modifications to drainage ways within a Federal Emergency Management Agency (FEMA) designated 100-year floodplain shall be avoided to the maximum extent possible. When this is unavoidable, all improvements of modifications shall be in compliance with all applicable regulations under the National Flood Insurance Program, 44 CFR Part 59 and shall be engineered for structural integrity during the 100 year storm event by the primary flooding source or secondary source, whichever yields the most conservative design. Any construction activity proposed within a 100-year FEMA defined floodplain, will require the submission of a detailed Floodplain Study documenting pre-development and post-development conditions for review by the County. Modifications to the effective regulatory floodplain will require final FEMA determination at the owner's expense.

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~~7.6.~~ Conveyance - All stormwater conveyance practices shall be designed to convey stormwater to allow for the maximum removal of pollutants and reduction in flow velocities. This shall include, but not be limited to:

- A. Maximizing of flow paths from inflow points to outflow points;
- B. Protection of inlet and outlet structures;
- C. Elimination of erosive flow velocities. (The Virginia Stormwater Management Manual and Virginia Erosion and Sediment Control Handbook provides detailed guidance on the requirements for conveyance for stormwater practices.)

~~8.7.~~ Proposed residential, commercial, or industrial subdivisions shall apply these stormwater management criteria to the land development process as a whole. Individual lots in new subdivisions shall not be considered separate land development projects, but rather the entire subdivision shall be considered a single land development project. Hydrologic parameters shall reflect the ultimate basin planned land uses and shall be applied in all engineering calculations.

~~9.8.~~ The owner must prepare an erosion and sediment control plan in accordance with the Virginia Erosion and Sediment Control Minimum Standards (4VAC50-30-40) and the requirements of this chapter for all construction activities related to implementing any onsite disturbance exceeding 10,000 SF. The Erosion and Sediment Control Plan shall be submitted concurrently with the development plan.

~~10.9.~~ In subdivisions, all SWM/BMP facilities shall be placed in a common area unless prior approval has been obtained from the program administrator. Further, proposed or natural drainage ways shall not occur across or upon individual lots unless prior approval has been obtained from the program administrator. Proposed lot lines shall observe natural drainage ways to the maximum extent practicable.

~~11.40.~~ Maintenance and Access Easements - The owner must ensure access to all drainage improvements and/or stormwater treatment practices at the site for the purpose of inspection and repair by securing all the maintenance easements needed on a permanent basis (see appendix). These easements will be recorded with the plan and will run with the land in all transfers, assigns, assumptions, or other of title to the property. See also subsection 203.4

A. All drainage improvements and/or stormwater management facilities must be located within a drainage easement (i.e, 25 feet from the toe of slope and/or periphery) and shall be maintained by the landowner, an Owners or Homeowners Association, or other legal entity approved by the Board of Supervisors. Maintenance responsibilities shall be established in the required Deed of Dedication, in a form acceptable to the County Attorney.

B. Access to SWM/BMP facilities must be provided via an all weather vehicular traversable route contained within appropriate easements (see appendix).

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C. Stormwater drainage easements shall be extended, where necessary, to upstream and downstream property lines to permit future development reasonable access to on-site drainage ways or drainage systems for overall continuity.

~~12.44.~~ Embankments and water impoundments shall be in accordance with 3.01 through 3.08 of the Virginia Stormwater Management Control Handbook.

SECTION 202 Definitions:

For the purposes of this section, the following words and phrases shall have the meanings respectively ascribed to them for Sections 200 through 207 and A200 through A207:

"Accelerated Erosion" means erosion caused by development activities that exceeds the natural processes by which the surface of the land is worn away by the action of water, wind, or chemical action.

"Act" means Article 1.1 (§ 10.1-603.1 et seq.) of Chapter 6 of Title 10.1 of the Code of Virginia.

"Adequate Channel" means a channel with a defined bed and banks, or an otherwise limited flow area that will convey the designated frequency storm event without overtopping the channel banks nor causing erosive damage to the channel bed or banks.

"Administrator" A representative of the Fauquier County Board of Supervisors who has been appointed to serve as an agent of the Board of Supervisors in administering this Ordinance.

"Applicant" means any person submitting a stormwater management plan for approval.

"Aquatic Bench" means a 10- to 15- foot wide bench around the perimeter of a permanent pool that ranges in depth from zero to 12 inches. Vegetated with emergent plants, the bench augments pollutant removal, provides habitats, conceals trash and water level fluctuations, and enhances safety.

"Best Management Practice (BMP)" means a structural or nonstructural practice which is designed to minimize the impacts of development on surface and groundwater systems.

"Bioretention Basin" means a water quality BMP engineered to filter the water quality volume through an engineered planting bed, consisting of a vegetated surface layer (vegetation, mulch, ground cover), planting soil, and sand bed, and into the in-situ material.

"Bioretention Filter" means a bioretention basin with the addition of a sand filter collection pipe system beneath the planting bed.

"Board" means the Fauquier County Board of Supervisors.

"Building" means any structure, either temporary or permanent, having walls and a roof, designed for the shelter of any person, animal, or property, and occupying more than 100 square feet of area.

"Channel" means a natural or artificial watercourse with a definite bed and banks that conducts continuously or periodically flowing water.

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"Constructed Wetlands" means areas intentionally designed and created to emulate the water quality improvement function of wetlands for the primary purpose of removing pollutants from stormwater.

"Dedication" means the deliberate appropriation of property by its owner for general public use.

"Department" means the Virginia Department of Conservation and Recreation.

"Detention" means the temporary storage of storm runoff in a stormwater management practice with the goals of controlling peak discharge rates and providing gravity settling of pollutants.

"Detention Facility" means a detention basin or alternative structure designed for the purpose of temporary storage of stream flow or surface runoff and gradual release of stored water at controlled rates.

"Developer" means a person who undertakes land disturbance activities.

"Development" means *land development* or *land development project*.

"Drainage Easement" means a legal right granted by a landowner to a grantee allowing the use of private land for stormwater management purposes.

"Erosion and Sediment Control Plan" means a plan that is designed to minimize the accelerated erosion and sediment runoff at a site during construction activities.

"Flooding" means a volume of water that is too great to be confined within the banks or walls of the stream, water body or conveyance system and that overflows onto adjacent lands, causing or threatening damage.

"Grassed Swale" means an earthen conveyance system which is broad and shallow with erosion resistant grasses and check dams, engineered to remove pollutants from stormwater runoff by filtration through grass and infiltration into the soil.

"Hydrologic Soil Group (HSG)" means a Natural Resource Conservation Service classification system in which soils are categorized into four runoff potential groups. The groups range from A soils, with high permeability and little runoff production, to D soils, which have low permeability rates and produce much more runoff.

"Impervious Cover" means a surface composed of any material that significantly impedes or prevents natural infiltration of water into soil. Impervious surfaces include, but are not limited to, roofs, buildings, streets, parking areas, and any concrete, asphalt, or compacted gravel surface.

"Industrial Stormwater Permit" means an National Pollutant Discharge Elimination System permit issued to a commercial industry or group of industries which regulates the pollutant levels associated with industrial stormwater discharges or specifies on-site pollution control strategies.

"Infiltration" means the process of percolating stormwater into the subsoil.

"Infiltration Facility" means any structure or device designed to infiltrate retained water to the subsurface. These facilities may be above grade or below grade.

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"Jurisdictional Wetland" means an area that is inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support a prevalence of vegetation typically adapted for life in saturated soil conditions, commonly known as hydrophytic vegetation.

"Land Conversion Activities" means any activity that results in a modification to the current or natural condition.

"Land Development" or **"Land Development Project"** means a manmade change to the land surface that potentially changes its runoff characteristics.

"Land Disturbance Activity" means any activity which changes the volume, velocity, or peak flow discharge rate of rainfall runoff from the land surface. This may include the grading, digging, cutting, scraping, or excavating of soil, placement of fill materials, paving, construction, substantial removal of vegetation, or any activity which bares soil or rock or involves the diversion or piping of any natural or man-made watercourse.

"Landowner" means the legal or beneficial owner of land, including those holding the right to purchase or lease the land, or any other person holding proprietary rights in the land.

"Linear Development Project" means a land development project that is linear in nature such as, but not limited to, (i) the construction of electric and telephone utility lines, and natural gas pipelines; (ii) construction of tracks, rights-of-way, bridges, communication facilities and other related structures of a railroad company; and (iii) highway construction projects.

"Local Stormwater Management Program" or **"Local Program"** means a statement of the various methods adopted pursuant to the Act and implemented by a locality to manage the runoff from land development projects and shall include an ordinance with provisions to require the control of after-development stormwater runoff rate of flow, water quality, the proper maintenance of stormwater management facilities, and minimum administrative procedures consistent with this chapter.

"Locality" means Fauquier County.

"Maintenance Agreement" means a legally recorded document that acts as a property deed restriction, and which provides for long-term maintenance of storm water management practices.

"Nonpoint Source (NPS) Pollution" means pollution from any source other than from any discernible, confined, and discrete conveyances, and shall include, but not be limited to, pollutants from agricultural, silvicultural, mining, construction, subsurface disposal and urban runoff sources.

"Nonpoint Source Pollutant Runoff Load" or **"Pollutant Discharge"** means the average amount of a particular pollutant measured in pounds per year, delivered in a diffuse manner by stormwater runoff

"Off-Site Facility" means a stormwater management measure located outside the subject property boundary described in the permit application for land development activity.

"On-Site Facility" means a stormwater management measure located within the subject property boundary described in the permit application for land development activity.

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"Owner" means the owner or owners of the freehold of the premises or lesser estate therein, a mortgagee or vendee in possession, assignee of rents, receiver, executor, trustee, lessee or other person, firm or corporation in control of a property.

"Percent Impervious" means the impervious area within the site divided by the area of the site multiplied by 100.

"Person" means any individual, partnership, firm, association, joint venture, public or private corporation, trust, estate, commission, board, public or private institution, utility, cooperative, county, city, town or other political subdivision of the Commonwealth, any interstate body or any other legal entity.

"Plan-approving Authority" means the Fauquier County Board of Supervisors or its designee, responsible for determining the adequacy of a submitted stormwater management plan.

"Planning Area" means a designated portion of the parcel on which the land development project is located. Planning areas shall be established by delineation on a master plan. Once established, planning areas shall be applied consistently for all future projects.

"Post-development" refers to conditions that reasonably may be expected or anticipated to exist after completion of the land development activity on a specific site or tract of land.

"Pre-development" refers to the conditions that exist at the time that plans for the land development of a tract of land are approved by the plan approving authority. Where phased development or plan approval occurs (preliminary grading, roads and utilities, etc.), the existing conditions at the time *prior to* the first item being approved or permitted shall establish predevelopment conditions.

"Program Administrator" means the County Administrator or his designee.

"Program Authority" means Fauquier County ~~the county which has adopted a stormwater management program.~~

"Recharge" means the replenishment of underground water reserves.

"Redevelopment" means the process of developing land that is or has been previously developed.

"Regional (watershed-wide) Stormwater Management Facility" or **"Regional Facility"** means a facility or series of facilities designed to control stormwater runoff from a specific watershed, although only portions of the watershed may experience development.

"Runoff" or **"stormwater runoff"** means that portion of precipitation that is discharged across the land surface or through conveyances to one or more waterways.

"Site" means the parcel of land being developed, or a designated planning area in which the land development project is located.

"State Waters" means all waters on the surface and under the ground wholly or partially within or bordering the Commonwealth or within its jurisdiction.

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"Stop Work Order" means an order issued which requires that all land disturbing and construction activity on a site be stopped.

"Stormwater Detention Basin" or **"Detention Basin"** means a stormwater management facility which temporarily impounds runoff and discharges it through a hydraulic outlet structure to a downstream conveyance system. While a certain amount of outflow may also occur via infiltration through the surrounding soil, such amounts are negligible when compared to the outlet structure discharge rates and are, therefore, not considered in the facility's design. Since a detention facility impounds runoff only temporarily, it is normally dry during nonrainfall periods.

"Stormwater Extended Detention Basin" or **"Extended Detention Basin"** means a stormwater management facility which temporarily impounds runoff and discharges it through a hydraulic structure over a period of time to a downstream conveyance system for the purpose of water quality enhancement or stream channel erosion control. While a certain amount of outflow may also occur via infiltration through the surrounding soil, such amounts are negligible when compared to the outlet structure discharge rates and, therefore, are not considered in the facility's design. Since an extended detention basin impounds runoff only temporarily, it is normally dry during nonrainfall periods.

"Stormwater Management Facility" means a device that controls stormwater runoff and changes the characteristics of that runoff including, but not limited to, the quantity and quality, the period of release or the velocity of flow.

"Stormwater Management" means the use of structural or non-structural practices that are designed to reduce storm water runoff pollutant loads, and/or peak flow discharge rates and control discharge volumes.

"Stormwater Management Plan" or **"Plan"** means a document containing material for describing how existing runoff and quality characteristics will be affected by a land development project and methods for complying with the requirements of the local program. Best Management Practices are part of the Stormwater Management Plan.

"Stormwater Retention Basin" see Wet Pond.

"Stormwater Runoff" means flow on the surface of the ground, resulting from precipitation.

"Vegetated Filter Strip" means a densely vegetated section of land engineered to accept runoff as overland sheet flow from upstream development. It shall adopt any vegetated form, from grassy meadow to small forest. The vegetative cover facilitates pollutant removal through filtration, sediment deposition, infiltration and absorption, and is dedicated for that purpose.

"Watercourse" means a permanent or intermittent stream or other body of water, either natural or man-made, which gathers or carries surface water.

"Watershed" means a defined land area drained by a river, stream, drainage ways or system of connecting rivers, streams, or drainage ways such that all surface water within the area flows through a single outlet.

"Wet Pond or Retention Basin" also known as a retention basin, is a man-made basin which contains a permanent pool of water much like a lake or natural pond. The wet pond is designed to hold a permanent pool above which storm runoff is stored and released at a controlled rate. The

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release is regulated by an outlet device designed to discharge flows at various rates similar to the methods employed in an extended detention pond.

SECTION 203 Stormwater Management Program Permit Procedures and Requirements

203.1. Permit Required.

No land owner or land operator shall receive any of the building, grading or other land development permits required for land disturbance activities without first meeting the requirements of this Manual prior to commencing the proposed activity.

Unless otherwise excepted by this Manual, an approved SWM plan must be submitted and accompanied by the following in order for a land disturbing permit application to be considered:

1. Stormwater management and BMP plan in accordance with Subsection 203.2;
2. Maintenance agreement in accordance with Subsection 203.4;
3. Performance bond estimate in accordance with Subsection 203.5; and
4. Permit application and Plan review fee in accordance with Subsection 203.6.

203.2. Stormwater Management Plan Required.

No application for land development, land use conversion, or land disturbance, or as otherwise excluded in this DSM, will be approved unless it includes a stormwater management plan, including Best Management Practices, as required by this Manual, detailing how runoff and associated water quality impacts resulting from the activity will be controlled or managed.

A stormwater management plan shall consist of a *concept plan* to ensure adequate planning for the management of stormwater runoff and quality control, and a *final plan*. Both plans shall be in accordance with the criteria established in this section.

No building, grading, or erosion and sediment control permit shall be issued until a satisfactory final stormwater management plan or a waiver thereof, shall have undergone a review and been approved by the program administrator after determining that the plan or waiver is consistent with the requirements of this Manual.

1. Stormwater Management/BMP Concept Plan

A stormwater management concept plan shall be required with all preliminary plan and rezoning applications, and will include all information from the SWM/BMP

Preliminary/Concept Plan Checklist (see appendix) to evaluate the environmental characteristics of the project site, the potential impacts of all proposed development of the site, both present and future, on the water resources, and the effectiveness and acceptability of the measures proposed for managing stormwater generated by the project site. A concept plan will not be required if a preliminary plan or rezoning is not required.

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The concept plan should be prepared at the time of the preliminary plan or other early step in the development process to identify the type of stormwater management measures necessary for the proposed project. The intent of this conceptual planning process is to ensure adequate planning for management of stormwater runoff from future development. To accomplish this goal the following information shall be included in the concept plan:

A. A map (or maps) indicating the location of existing and proposed buildings, roads, parking areas, utilities and structural stormwater management. The map(s) will also clearly show proposed land use with tabulation of the percentage of surface area to be adapted to various uses; drainage patterns; locations of utilities, roads and easements; the general limits of clearing and grading. A written description of the site plan and justification of proposed changes in natural conditions may also be required.

B. Preliminary engineering analysis to show that the proposed stormwater management measures are capable of controlling runoff from the site in compliance with the text and specifications of this Manual.

C. A written or graphic inventory of the natural resources at the site and surrounding area as it exists prior to the commencement of the project and a description of the watershed and its relation to the project site. This description should include a discussion of soil conditions, forest cover, topography, wetlands, and other native vegetative areas on the site. Particular attention should be paid to environmentally sensitive features that provide particular opportunities or constraints for development.

2. Stormwater Management/BMP Final Plan

Following review of the stormwater management concept plan, and modifications to that plan as deemed necessary by the County, a final stormwater management plan must be submitted for approval.

All stormwater management plans shall be appropriately sealed and signed by a professional in adherence to all minimum standards and requirements pertaining to the practice of that profession in accordance with Chapter 4 (§ 54.1-400 et seq.) of Title 54.1 of the Code of Virginia and attendant regulations certifying that the plan meets all submittal requirements outlined in this Manual and is consistent with good engineering practice.

All stormwater management plans shall have BMP's.

The final stormwater management plan, in addition to the information from the concept plan, shall include all of the information required in the Major Site Plan or Construction Plan checklists (see Chapter 1 appendix) and may also include the following:

A. Project Identifier

The name, address, and telephone number of all persons having a legal interest in the property and the parcel identification number of the property or properties affected.

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B. Type 1 Soils Map or Preliminary Soils Report by a certified Professional Soils Scientist and Topographic Base Map

An appropriate scale of the current Type 1 Soils Map or Preliminary Soils Report prepared by a certified Professional Soils Scientist and topographic base map of the site which extends to the top of the drainage shed and a minimum of 200 feet beyond the limits of the proposed development and indicates existing surface water drainage including streams, ponds, culverts, ditches, and wetlands; current land use including all existing structures; locations of utilities, roads, and easements; and significant natural and manmade features not otherwise shown. Soils information from the “Interpretive Guide to the Soils of Fauquier County” shall be placed on the base map for each mapping unit. The source of topographic and soil map shall be stated. A drainage divide map shall be provided that identifies all offsite and onsite drainage patterns to the top of each drainage shed.

C. Calculations (See appendix for design guidelines)

Hydrologic and hydraulic design calculations for the pre-development and postdevelopment conditions for the design storms specified in this Manual shall be submitted. Such calculations shall include (i) description of the design storm frequency, intensity and duration, (ii) time of concentration, (iii) Soil Curve Numbers or runoff coefficients, (iv) peak runoff rates and total runoff volumes for each watershed area, (v) infiltration rates, where applicable, (vi) culvert sizing, (vii) flow velocities, (viii) data on the increase in rate and volume of runoff for the specified design storms, and (ix) documentation of sources for all computation methods and field test results. (See Section 204.)

D. Soils Information

Geotechnical properties for the hydrologic and structural properties of soils, for all dam embankments exceeding 15 feet in height or 15 acre feet in impoundment capacity, shall be described in a geotechnical report and submitted to the County for review. The report shall include boring depth, sampling frequency and types and associated laboratory testing with results and conclusions and follow the criteria in the Virginia Stormwater Management Manual.

Soil properties for infiltration facilities shall also conform to the guidance and specification outlined in the Virginia Stormwater Management Manual.

Information shall include depth to rock, type of rock, depth to water table and permeability (in/hr) 3 feet below trench bottom. Information shall be provided by someone qualified to perform work.

E. Maintenance Plan

The design and planning of all stormwater management facilities shall include detailed maintenance procedures to ensure their continued function. These plans will identify the parts or components of a stormwater management facility that need to be maintained and the equipment and skills or training necessary.

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F. Landscaping Plan

The applicant must present a detailed landscaping plan describing the woody and herbaceous vegetative stabilization and management techniques to be used within and adjacent to the stormwater practice. The landscaping plan must also describe who will be responsible for the maintenance of vegetation at the site and what practices will be employed to ensure that adequate vegetative cover is preserved. This plan must be prepared by a qualified individual familiar with the selection of emergent and upland vegetation appropriate for the selected BMP.

G. Maintenance Agreement

The applicant must execute an easement and a Stormwater/BMP Maintenance Agreement binding on all subsequent owners of land served by an on-site stormwater management/BMP measure in accordance with the specifications of this Manual (see appendix). See also Subsection 203.4.

H. Redevelopment

All redevelopment projects not served by an existing water quality BMP shall either reduce existing site impervious areas by 20% or implement water quality BMP's to reduce pre-redevelopment pollution loads of the existing site by 10%.

Use the following formula:

10% of existing impervious area + 40% of net increase of impervious

or

$$10\% (\text{ex. Imp.}) \times (\text{ex. Imp. "C"}) + 40\% (\text{new Imp.}) \times (\text{new Imp. "C"}) = \text{Total \%}$$

(total site A) (total site "C") (total site A) (total site "C") Removal Req.

203.3 Plan Inactivity

Should a land-disturbing activity associated with an approved SWM plan in accordance with this section not begin within the 180-days following approval and plat recordation or cease for more than 180 days, the county may evaluate the existing approved erosion and sediment control plan and stormwater management plan to determine whether the plan still satisfies local program requirements and to verify that all design factors are still valid. If the authority finds the previously filed plan to be inadequate, a modified plan shall be submitted and approved prior to the resumption of land-disturbing activities, and a new performance bond shall be posted. Any facility specifically designed to be regional in nature shall not be subject to the above criteria providing no modifications or changes to land use designations can be demonstrated.

203.4. Stormwater Facility Maintenance Agreements

Prior to the issuance of any permit that has a stormwater management facility, as one of the requirements of the permit, the applicant or owner of the site must execute a maintenance agreement that shall be binding on all subsequent owners of land served by the subsequent owners of land served by the stormwater management facility.

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1. Maintenance activities shall not alter the design function of the facility from its original design unless approved by the County prior to the commencement of the proposed maintenance activity.

2. Maintenance Agreement

Maintenance of all stormwater management facilities shall be ensured through the creation of a formal maintenance agreement that must be approved by the County and recorded into the land record prior to final plat approval. The agreement shall identify by name or official title the person(s) responsible for carrying out the maintenance.

Responsibility for the operation and maintenance of stormwater management facilities shall remain with the property owner and shall pass to any successor or owner. If portions of the land are to be sold, legally binding arrangements shall be made to pass the responsibility to successors in title.

The agreement shall provide that in the event that maintenance or repair is neglected, or the stormwater management facility becomes a danger to public health or safety, the County shall have the authority to perform the work and to recover the costs from the owner.

203.5 Performance Guarantee

The County shall require the submittal of a performance guarantee (cash escrow, letter of credit or such other acceptable legal arrangement) prior to issuance of a permit in order to insure that the stormwater practices are installed by the permit holder as required by the approved stormwater management plan.

1. The amount of the installation performance guarantee shall be the total estimated construction cost of the stormwater management/BMP practices approved under the permit, plus 25%.

2. The performance guarantee shall contain forfeiture provisions for failure, after proper notice, to complete work within the time specified, or to initiate or maintain appropriate actions which may be required of the applicant in accordance with the approved stormwater management plan.

3. If the County takes such action upon such failure by the applicant, the County may collect from the applicant for the difference should the amount of the reasonable cost of such action exceed the amount of the security held.

4. The landscaping portion of the performance guarantee for the stormwater management/BMP plan shall be held for one year after installation in accordance with the final plans and specifications prior to final release.

5. These requirements are in addition to all other provisions of the County ordinances relating to the issuance of such plans and are not intended to otherwise affect the requirements for such plans.

6. The County reserves the right to re-evaluate the performance guarantee associated with any project for which an extension is requested to ensure that the performance guarantee adequately reflects current market conditions.

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203.6. SWM/BMP Review Fees

Applicants shall submit a review fee to Fauquier County as outlined in the Department of Community Development fee schedule in effect at the time of acceptance of the application.

203.7. SWM/BMP Final Plan Submittal Review Application

1. Applications shall include the following: one copy of the approved SWM/BMP concept plan, two copies of the stormwater management/BMP final plan, two copies of the maintenance agreement, the SWM/BMP checklist, and any required review fees.
2. Within 60 calendar days of the receipt of a complete application, including all documents as required by this Manual, the County shall inform the applicant whether the application and plan are approved or disapproved.
3. If the stormwater management plan is disapproved, the County shall communicate the decision to the applicant in writing. The applicant may then revise the stormwater management plan. If additional information is submitted, the County shall have 45 calendar days from the date the additional information is received to inform the applicant that the plan is either approved or disapproved.
4. If the final stormwater management plan and maintenance agreement are approved by the County, the following conditions apply:
 - A. The applicant shall comply with all applicable requirements of the approved plan and this Manual and shall certify that all land clearing, construction, land development and drainage will be done according to the approved plan.
 - B. The land development project shall be conducted only within the area specified in the approved plan.
 - C. The County shall be allowed to conduct periodic inspections of the project.
 - D. The person responsible for implementing the approved plan shall conduct monitoring to ensure compliance with the approved plan.
 - E. No changes may be made to an approved plan without review and written approval by the County.
 - F. The owner is responsible for maintaining certified construction logs, including performance as-builts surveys, and geotechnical inspections during subsurface or embankment construction and compaction activities as outlined in the Virginia Stormwater Management Handbook. The County may request this information for review.

SECTION 204 General Criteria for Stormwater Management

The following technical criteria shall be applied on all applicable land development and land conversion activities.

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204.1 General

1. All development occurring within the County shall provide stormwater management facilities and Best Management Practices adequate to reduce increased runoff rates and nonpoint source pollution, as outlined herein. The design shall include control of stream flow rates, water surface levels, and runoff rates. This does not preclude demonstration of compliance with Minimum Standard 19 and TB-1 as a method of quantity control.
2. Outflows from a stormwater management facility shall be discharged to an adequate channel, so as to provide a nonerosive velocity of flow from the basin to the channel.
3. All stormwater management facilities shall have a maintenance plan which identifies the owner and the responsible party for carrying out the maintenance plan.

4. Landscaping Plans Required

All stormwater management practices must have a landscaping plan detailing both the vegetation to be in the practice and how and who will manage and maintain this vegetation. This plan must be prepared by a qualified individual familiar with the selection of emergent and upland vegetation appropriate for the selected BMP.

5. Maintenance Agreements

A legally binding covenant specifying the parties responsible for the proper maintenance of all stormwater treatment practices shall be secured prior to issuance of any permits for land disturbance activities.

204.2 Water Quality

General Policy for BMP and Stormwater Quality:

1. All development or redevelopment occurring within the County shall incorporate water quality measures (Best Management Practices).
2. The current edition of the “Northern Virginia BMP Handbook”, prepared by the Northern Virginia Planning District Commission (NVPDC), shall be used in the design and review of BMP facilities using the Occoquan Method. Other design criteria may be used solely at the discretion of the program administrator. Sufficient support material to document the methodology will be required (see appendix).
3. All stormwater runoff generated from new development shall not be discharged into a jurisdictional wetland or local water body without adequate treatment.

204.3 Insect Management

The design of all Stormwater Management and Best Management Practice Systems should incorporate measures to reduce the probability of mosquito breeding. These measures should be consistent with the most current guidelines and/or policies of all applicable governing agencies including, but not limited to, the Virginia Department of Conservation and Recreation (DCR), the Northern Virginia Planning District Commission, local and state Health Departments and the Department of Environmental Quality (DEQ).

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SECTION 205 Construction Inspection

All stormwater management construction inspections shall utilize the final approved plans and specifications for compliance. In addition, the inspection shall comply with the latest version of the Erosion and Sediment Control Regulations, promulgated pursuant to Article 4 (§ 10.1-566) of Chapter 5 of Title 10.1 of the *Code of Virginia*.

If the County determines that there is a failure to comply with the plan, notice shall be served upon the permittee or person responsible for carrying out the plan in accordance with Subsection 207 of the DSM.

205.1. Post-Construction Final Inspection and As-Built Plans

1. If embankment height exceeds 15 feet or the impoundment capacity exceeds 15 acre feet, the applicant will be required to submit evidence of geotechnical inspections conducted during embankment construction.
2. All applicants are required to submit “as built” plans and analysis for any stormwater management practices located on-site after final construction is completed. The plan must show the final design specifications for all stormwater management facilities and routing through the as-built condition, and must be certified by a professional engineer. A final inspection by the County is required before the release of any performance guarantee can occur. As-built analysis must meet or exceed the approved performance of each facility.

SECTION 206 Maintenance Inspection and Repair of Stormwater Facilities

206.1. Maintenance Inspection of Stormwater Facilities

To ensure proper performance of the stormwater facility, the property owner or owner’s association is responsible for inspecting the stormwater management facility in accordance with the approved maintenance plan and the stormwater management design manual. The responsible party shall keep written records of inspections and make them available to the County upon request.

In the event that the stormwater management facility has not been maintained, or has been damaged, and/or becomes a danger to public safety or public health, the County shall notify the person responsible for carrying out the maintenance plan by registered or certified mail to the address of the owner of record. The owner shall be required to provide an inspection of the facility, by a person qualified to perform such inspection. If the responsible party fails or refuses to correct deficiencies, to meet the requirements of the maintenance agreement, the County after reasonable notice, may correct a violation of the design standards or maintenance needs by performing all necessary work to place the facility in proper working condition, and recover the costs from the owner.

SECTION 207 Enforcement and Penalties

207.1. Notice of Violation

When the Program Administrator determines that an activity is not being carried out in accordance with the requirements of this Manual, a written notice of violation shall be delivered

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by registered or certified mail to the applicant of record for the activity. Each calendar day of an activity conducted in violation of this Manual shall constitute a separate violation, but may be covered by one Notice of Violation. The notice of violation shall contain:

1. The name and address of the property owner;
2. The address when available or a description of the building, structure or land upon which the violation is occurring;
3. A statement specifying the nature of the violation;
4. A description of the remedial measures necessary to bring the development activity into compliance with this Manual and a time schedule for the completion of such remedial action;
5. A statement of the penalty or penalties that shall or may be assessed against the person to whom the notice of violation is directed;
6. A statement that the determination of violation may be appealed to the municipality by filing a written notice of appeal within thirty (30) days of service of notice of violation.

207.2. Stop Work Orders

Persons receiving a notice of violation will be required to halt all construction activities. This “stop work order” will be in effect until the County confirms that the development activity is in compliance and the violation has been satisfactorily addressed. Upon failure to comply within the time specified, the permit may be revoked and the applicant shall be deemed to be in violation of this article and upon conviction shall be subject to the penalties provided by this Manual.

207.3. Civil and Criminal Penalties

Any person who violates any provision of a local ordinance or program adopted pursuant to the authority of this article shall be guilty of a Class 1 misdemeanor and shall be subject to a fine not exceeding \$1,000 or up to thirty days imprisonment for each violation or both. Each calendar day during which the activity occurs, or day during which required conditions are not met or standards are violated shall constitute a separate violation. In addition, the County may pursue the following actions:

1. The County may apply to the Fauquier County Ceircuit Ceourt to enjoin a violation or a threatened violation of the provisions of this Manual without the necessity of showing that an adequate remedy at law does not exist.
2. Without limiting the remedies which may be obtained in this section, the County may bring a civil action against any person for violation of this Manual or any condition of a permit. The action may seek the imposition of a civil penalty not more than \$2,000 against the person for each violation.
3. With the consent of any person who has violated or failed, neglected or refused to obey this Manual or any condition of a permit, the County may provide, in an order issued by the County against such person, for the payment of civil charges for violations in specific sums, not to exceed the limit specified in Subsection 207.3.2 of this Manual. Such civil

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charges shall be instead of any appropriate civil penalty which could be imposed under Subsection 207. ~~Such a local ordinance may also include sanctions.~~

207.4. Holds on Occupancy Permits

Occupancy permits shall not be granted until corrections to all stormwater practices have been made in accordance with the approved plans, Notice of Violation, Stop Work Order, or Permit requirements, and accepted by the County.

SECTION 208 Erosion & Sediment Control Requirements

An Erosion and Sediment Control Plan shall be prepared in accordance with Chapter 11 of the Fauquier County Code as presented herein (see appendix). Sections are DSM Section numbers / Fauquier County Code Section numbers. This Ordinance shall be known as the “Fauquier County Erosion and Sediment Control Ordinance.”

208.1. / 11.1. Purpose of section.

The purpose of this section is to conserve the land, water, air and other natural resources of the county and to promote public health and welfare of the people in the county by establishing requirements for the control of erosion and sedimentation, and by establishing procedures whereby these requirements shall be administered and enforced.

208.2. / 11.2. Definitions.

For the purposes of this section, the following words and phrases shall have the meanings respectively ascribed to them for Sections 208 and A208:

“Administrator”: A representative of the Fauquier County ~~h~~Board of ~~s~~Supervisors who has been appointed to serve as an agent of the ~~h~~Board of ~~s~~Supervisors in administering this section.

“Agreement in lieu of a plan”: means a contract between the plan-approving authority and the owner that specifies conservation measures that must be implemented in the construction of a single-family residence; this contract may be executed by the plan-approving authority in lieu of a formal site plan.

“Applicant”: Any person submitting an erosion and sediment control plan for approval or requesting the issuance of a permit, when required, authorizing land disturbing activities to begin.

“Board or Virginia Soil and Water Conservation Board”: The agency created in Title 10.1 of the *Code of Virginia*.

“Clearing”: Any activity which removes the vegetative ground cover, including but not limited to, root mat removal or topsoil removal.

“Construction plan, erosion and sediment control plan or plans”: A document containing material for the conservation of soil and water resources of a unit or group of units of land. It may include appropriate maps, an appropriate soil and water plan inventory and management information with needed interpretations, and a record of decisions contributing to conservation treatment. The plans shall contain all major conservation decisions to assure that the entire unit or units of land will be so treated to achieve the conservation objectives. The plan shall consist of, as

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a minimum, a written document detailing the necessary erosion and sedimentation control measures and the timing of their installation, as well as scale drawings indicating the character, scope, and limits of land disturbing activities on the unit or units of land, and the locations of the conservation measures. These locations may be shown on the site plan or construction drawings for the project with which the land disturbing activity is related.

“Conservation standard or standards”: The criteria, guidelines, techniques and methods for the control of erosion and sedimentation found in Chapter 3 of the current edition of the Virginia Erosion and Sediment Control Handbook, as amended.

“Department”: The Department of Conservation and Recreation.

“Department of Community Development”: The Fauquier Ceounty Department of Community Development.

“District or Soil and Water Conservation District”: A governmental subdivision of the state, and a public body corporate and politic, organized in accordance with the provisions of the Soil Conservation Districts Law, Title 10.1, Chapter 5, Article 4, *Code of Virginia*, as amended.

“Excavating”: Any digging, scooping, or other methods of removing earth materials.

“Grading”: Any excavating or filling of earth materials or any combination thereof, including the land in its excavated or filled condition.

“Land disturbing activity”: Any land change which may result in soil erosion from water or wind and movement of sediments into state waters or onto lands in the state, including, but not limited to, clearing, grading, excavating, transporting and filling of land, except that the term shall not include:

- (1) Such minor land disturbing activities as home gardens and individual home landscaping, repairs and maintenance work;
- (2) Individual service connections;
- (3) Installation, maintenance, or repair of any underground public utility lines when such activity occurs on an existing hard surfaced road, street or sidewalk, provided such land disturbing activity is confined to the area of the road, street or sidewalk which is hard surfaced;
- (4) Septic tank lines or drainage fields unless included in an overall plan for land disturbing activity relating to construction of the building to be served by the septic tank system;
- (5) Surface or deep mining;
- (6) Exploration or drilling for oil and gas, including the well site, roads, feeder lines, and off-site disposal areas;
- (7) Tilling, planting, or harvesting of agricultural, horticultural, or forest crops, or livestock feedlot operations; including engineering operations as follows: construction of terraces, terrace outlets, check dams, desilting basins, dikes, ponds, ditches, strip

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cropping, lister furrowing, contour cultivating, contour furrowing, land drainage and land irrigation; however, this exception shall not apply to harvesting of forest crops unless the area on which harvesting occurs is reforested artificially or naturally in accordance with the provisions of Chapter 11 (§ 10.1-1100 et seq.) of the Code of Virginia ~~this title~~ or is converted to bona fide agricultural or improved pasture use as described in subsection B of Code of Virginia § 10.1-1163;

(8) Repair or rebuilding of the tracks, right-of-way, bridges, communication facilities and other related structures and facilities of a railroad company;

(9) Agricultural engineering operations including, but not limited to, the construction of terraces, terrace outlets, check dams, desilting basins, dikes, ponds not required to comply with the provisions of the Dam Safety Act, Article 2 (§ 10.1-604 et seq.) of Chapter 6 of the Code of Virginia ~~this title~~, ditches, strip cropping, lister furrowing, contour cultivating, contour furrowing, land drainage and land irrigation;

(10) Disturbed land areas of less than ten thousand (10,000) square feet in size, unless an erosion and sediment control plan is required by the terms of any other state or county ordinance or regulation;

(11) Installation of fence and sign posts or telephone and electric poles and other kinds of posts or poles;

(12) Shoreline erosion control projects on tidal waters when all of the land disturbing activities are within the regulatory authority of and approved by local wetlands boards, the Marine Resources Commission or the United States Army Corps of Engineers; however, any associated land that is disturbed outside of this exempted area shall remain subject to this article and the regulations adopted pursuant thereto; and

(13) Emergency work or repairs necessary to protect life, limb, or property; provided that if the land disturbing activity would have required an approved erosion and sediment control plan, if the activity were not an emergency, then the land area disturbed shall be shaped and stabilized in accordance with the requirement of the local plan-approving authority or the board where applicable. Emergency work or repairs will be reported to, and a land disturbing permit obtained from, the Department of Community Development, not later than the second working day following commencement of the work.

“Land disturbing permit”: A permit issued by the eCounty for clearing, filling, excavating, grading or transporting, or any combination thereof, on all lands except those lands privately owned, occupied or operated for agricultural, horticultural or forestal purposes as defined in Subsection 208.4.

“Local erosion and sediment control program or local control program”: An outline or explanation of the various elements or methods employed by Fauquier County ~~a district, county, city or town~~ to regulate land disturbing activities and thereby minimize erosion and sedimentation in compliance with the state program, and ~~may include~~ including such items as the Fauquier County Erosion and Sediment Control Ordinance, the Fauquier County Design Standards Manual, a local ordinance, policies and guidelines, technical materials, inspection, enforcement and evaluation.

“Owner”: The owner or owners of the freehold of the premises or lesser estate therein, including a mortgagee or vendee in possession, assignee of rents, receiver, executor, trustee, lessee or other person, firm or corporation in control of a property.

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“Permittee”: The person to whom the permit authorizing land disturbing activities is issued or the person who certifies that the approved erosion and sediment control plan will be followed.

“Person”: Any individual, partnership, firm, association, joint venture, public or private corporation, trust, estate, commission, board, public or private institution, utility, cooperative, county, city, town, or other political subdivision of the commonwealth, any interstate body, or any other legal entity.

“Plan-approving authority”: The Department of Community Development is the plan-approving authority for conservation plans submitted for land disturbing activities on a unit or units of land in the County. The John Marshall Soil and Water Conservation District shall be offered the opportunity to comment on all such plans prior to their approval.

“Program Administrator” means the County Administrator or his designee.

“Stabilization”: For the purpose of this section, stabilization is defined as ninety (90) percent permanent ground cover established to a height of two (2) inches and having survived for twelve (12) months without need of replanting or repair. The ninety (90) percent shall be equally distributed over the entire project area, with no evident bare spots.

“State erosion and sediment control program or state program”: The program adopted by the Board, consisting of conservation standards, guidelines and criteria to minimize erosion and sedimentation.

“State waters”: All waters on the surface and under the ground wholly or partially within or bordering the commonwealth or within its jurisdiction.

“Subdivision”: The provisions of Section 2-39 of the subdivision ordinance of the county pertaining to the definition of subdivision within the county, are hereby adopted and incorporated mutatis mutandis in this section by reference.

“Town”: An incorporated town.

“Transporting”: Any moving of earth materials from one place to another, other than such movement incidental to grading, when such movement results in destroying the vegetative ground cover either by tracking or the buildup of earth materials to the extent that erosion and sedimentation will result from the soil or earth materials over which such transporting occurs.

208.3. / 11.3. Local program generally.

(see appendix for checklist and technical bulletins).

(a) For the purpose of Section 208, the program authority and the plan approving authority shall be the Fauquier County Department of Community Development. Inspection responsibilities shall be fulfilled by the John Marshall Soil and Water Conservation District and/or the Fauquier County Department of Community Development. Erosion and sediment control plans submitted for approval to the Department of Community Development under this section shall:

(1) ~~b~~Be prepared in accordance with Chapters 3 and 4 of the Virginia Erosion and Sediment Control Handbook, Third Edition, 1992, as amended and the Virginia Erosion and Sediment Control Regulations, 1990, as amended. The use of the engineering calculations and standard proactive indications provided in Chapters 2 and 5 of said handbook is recommended; and

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(2) cContain the elements listed and explained in Chapter 6 of the Virginia Erosion and Sediment Control Handbook, Third Edition, 1992, as amended.

(b) The John Marshall Soil and Water Conservation District and the Department of Community Development shall be guided by the standards and the criteria set forth in the current edition of the Virginia Erosion and Sediment Control Handbook, Third Edition, 1992, as amended, and the Virginia Erosion and Sediment Control Regulations, 1990, as amended, in considering the adequacy of plans submitted for approval.

(c) The issuance of a land disturbing permit under the provisions of this section shall not guarantee or vest the property owner with the right to receive any other administrative or legislative permit approval required for the use of the property which is the subject of the land disturbing permit.

208.4. / 11.4. Regulation of land disturbing activities.

Except as provided in (1), (2), (3), and (4) of this section, no person shall engage in any land disturbing activity until he has received a land disturbing permit based upon an erosion and sediment control plan approved by the Department of Community Development. The preparation, submission, and approval of an erosion and sediment control plan shall be the responsibility of the owner.

(1) Any person who owns, occupies, or operates private land for agricultural, horticultural or forestal purposes shall not be deemed in violation of this section for land disturbing activities which result from the tilling, planting or harvesting of agricultural, horticultural or forest crops or products or engineering operations such as the construction of terraces, terrace outlets, check dams, desilting basins, floodwater retarding structures, channel improvements, floodways, dikes, ponds, ditches, and the like; the utilization of strip cropping, lister furrowing, contour cultivating, and contour furrowing; land drainage; land irrigation; seeding and planting of waste, sloping abandoned, or eroded lands to water-conserving and erosion-preventing plants, trees and grasses; forestation and reforestation; rotation of crops; soil stabilization with trees, grasses, legumes, and other thick growing, soil holding crops; retardation of runoff by increasing absorption of rainfall; and retirement from cultivation of steep, highly erosive areas and areas now badly gullied or otherwise eroded. Any person who owns, occupies, or operates private agricultural, horticultural or forest lands shall comply with the requirements of this section wherever that person proposes to conduct grading, excavating or filling operations, except as expressly exempted by this section.

(2) Any state agency that undertakes a project involving a land disturbing activity. A state agency shall not undertake a project involving a land-disturbing activity unless (i) the state agency has submitted annual specifications for its conduct of land-disturbing activities which have been reviewed and approved by the Department as being consistent with the state program or (ii) the state agency has submitted a conservation plan for the project which has been reviewed and approved by the Department.

(3) Any person whose land disturbing activities involve lands which extend into the jurisdiction of another local erosion and sediment control program; provided, such person has a plan approved by the Virginia Soil and Water Conservation Board. Such persons shall, however, comply with the requirements of this section regarding the provision of a

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performance bond with surety, cash escrow, letter of credit, any combination thereof, or such other arrangement as is acceptable to the Department of Community Development.

(4) Electric, natural gas and telephone utility companies, interstate and intrastate natural gas pipeline companies and railroad companies shall file general erosion and sediment control specifications annually with the Board for review and approval. The specifications shall apply to:

- a. Construction, installation or maintenance of electric transmission, natural gas and telephone utility lines and pipelines; and
- b. Construction of the tracks, rights-of-way, bridges, communication facilities and other related structures and facilities of the railroad company.

The Board shall have 60 days in which to approve the specifications. If no action is taken by the Board within 60 days, the specifications shall be deemed approved. Individual approval of separate projects within subdivisions 1 and 2 of this subsection is not necessary when approved specifications are followed. Projects not included in subdivisions 1 and 2 of this subsection shall comply with the requirements of the appropriate local erosion and sediment control program. The Board shall have the authority to enforce approved specifications.

208.5. / 11.5. Action on erosion and sediment control plan.

(a) The Department of Community Development shall, within forty-five (45) days of submission, approve any erosion and sediment control plans if it determines that the plan meets the conservation standards of the local control program and if the applicant certifies that he will properly perform the erosion and sediment control measures included in the plan and comply with the provisions of this section, provided, however, plans submitted as part of applications for the approval of subdivisions or site plans may, at the request of the applicant, be subject to the time limits applicable to the subdivision or site plan application, so that modifications required as a result of the subdivision or site plan process can be made. Where a plan is submitted as part of an application for approval of a subdivision or site plan and the applicant does not request that it be reviewed subject to the time limit applicable to the subdivision or site plan application, such plan shall be reviewed and acted upon within forty-five (45) days, provided, however, where changes or modifications to the plan are required as a result of the subdivision or site plan process, the applicant shall submit the modification which shall be considered a new application for approval and shall be acted upon by the Department of Community Development within forty-five (45) days of the submission. The approval of any plan submitted with a subdivision or site plan application, but acted upon separately, shall not act to vest or grandfather the plan where modifications are required as part of the subdivision or site plan process.

(b) Disapproval of any plan shall be in writing and give the specific reasons for its disapproval. When a plan submitted for approval pursuant to this section is found to be inadequate, the Department of Community Development shall specify such modifications, terms, and conditions as will permit approval of the plan and shall

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communicate these requirements to the applicant. If no action is taken by the Department of Community Development within the time specified in subsection (a), the plan shall be deemed approved and the person shall be authorized to proceed with the proposed activity.

(c) An approved plan may be modified by the Department of Community Development in the following cases:

- (1) Where inspection has revealed that the plan is inadequate to satisfy applicable regulations; or
- (2) Where the permittee finds that because of changed circumstances the approved plan cannot be effectively implemented, and proposed amendments to the plan, consistent with the requirements of this section, are agreed to by the Department of Community Development.

208.6. / 11.6. Applications for land disturbing permit; fees.

(a) Application for land disturbing permits shall be made to the Department of Community Development on forms, as specified by the Department of Community Development administrator, and shall include five (5) copies of an erosion and sediment control plan prepared in accordance with this section, and the required fee.

(b) The person responsible for carrying out the plan shall provide the name of an individual holding a certificate of competence as provide by Section 10.1-561 of the *Code of Virginia*, 1950, as amended, who will be in charge of and responsible for carrying out the land disturbing activity.

(c) The Board of Supervisors shall establish from time to time a schedule of fees for the review and approval or disapproval of erosion and sediment control plans and the issuance of land disturbing permits. Such fees shall be paid to the Treasurer, Fauquier County, at the time of filing such plans or, if no plan is required, upon the issuance of the land-disturbing permit.

208.7. / 11.7. Approved plan required for issuance of permits; certification; performance guarantee.

(a) The Department of Community Development shall not issue any land disturbing, building, zoning or site plan permits or subdivision approval for activities which involve land disturbing unless the applicant therefore submits with his application the approved erosion and sediment control plan or certification of such approved plan from the Department of Community Development, and certification that the plan will be followed. In addition, as a prerequisite to engaging in the land-disturbing activities shown on the approved plan, the person responsible for carrying out the plan shall provide the name of an individual holding a certificate of competence to the Department of Community Development program authority, as provided by Code of Virginia § 10.1-561, who will be in charge of and responsible for carrying out the land-disturbing activity.

(b) Where the land-disturbing activity results from the construction of a single family residence, an agreement in lieu of a plan may be substituted for an erosion and sediment control plan if executed by the Department of Community Development plan approving authority. The Department of Community Development authority may

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waive the certificate of competence requirement for an agreement in lieu of a plan for construction of a single family residence. If a violation occurs during the land-disturbing activity, then the person responsible for carrying out the agreement in lieu of a plan shall correct the violation and provide the name of an individual holding a certificate of competence, as provided by Code of Virginia § 10.1-561. Failure to provide the name of an individual holding a certificate of competence prior to engaging in land-disturbing activities may result in revocation of the approval of the plan and the person responsible for carrying out the plan shall be subject to the penalties in accordance with Title 10.1, Chapter 5 of the Code of Virginia ~~Virginia State Law~~.

(c) The Department of Community Development shall, prior to the approval of any application for subdivision or site plan, or the issuance of any grading, land disturbing, building or other permit, require from any applicant a reasonable performance guarantee with surety, cash escrow, letter of credit, any combination thereof, or such other legal arrangement as is acceptable to the Department of Community Development to ensure that ~~emergency~~ measures could be taken by the County at the applicant's expense should he fail, after proper notice, within the time specified to initiate or maintain appropriate conservation measures ~~action~~ which may be required of him as a result of his land disturbing activity.

If the County agency takes such conservation action upon such failure by the permittee, the County agency may collect from the permittee any costs in excess of for the difference should the amount of the reasonable cost of such action exceed the amount of security held.

Within sixty (60) days of the achievement of adequate stabilization of the land disturbing activity, as determined by the Department of Community Development, such bond, cash escrow, letter of credit, or other legal arrangement, or the unexpended or unobligated portion thereof, shall be refunded to the applicant or terminated, as the case may be. No land disturbing activity will be deemed completed until all permanent conservation measures are established.

The requirement of any performance guarantee may be waived by the Director of the Department of Community Development administrator if he determines that the application of such a requirement would impose an unnecessary hardship on the applicant or would be of an insignificant amount. In determining whether to waive any performance guarantee, the ~~administrator~~ Director shall consider the applicant's prior performance in implementing other plans. Any applicant who is aggrieved by the denial of a request for such a waiver may appeal the denial to the Program Administrator who has the authority to affirm the Director's decision or reverse the decision and grant a waiver.

(d) No land-disturbing permit shall be issued pursuant to this section prior to one of the following as applicable: either:

(1) Infrastructure plan approval as required by the Zoning Ordinance, or Approval of construction plans and profiles;

(2) Site plan approval as required by the Zoning Ordinance; or

(3) Final construction plan approval as required by the Subdivision Ordinance. Subdivision approval as required.

(e) The requirements of this section are in addition to all other provisions of law which relate to the issuance of such permits and shall not be construed to otherwise affect the requirements of such permits.

208.8. / 11.8. Monitoring, reports, and inspections.

(a) The Department of Community Development shall ensure that the land disturbing activity is inspected periodically in accordance with those procedures set forth in the Virginia Erosion and Sediment Control Handbook, Third Edition, 1992, as amended, and the Virginia Erosion and Sediment Control Regulations, 1990, as amended, to ensure compliance with the approved plan and to determine whether the measures required in that plan are effective in controlling erosion

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and sedimentation resulting from the land disturbing activity. Assistance in inspecting such activities will be provided by ~~the~~ Ceounty building inspectors and officials and the John Marshall Soil and Water Conservation District. The right-of-entry to conduct such inspection shall be expressly reserved in the permit and notice of inspection shall be given to the permittee.

(b) The Department of Community Development may require monitoring and reports from the permittee to ensure compliance with the approved plan and to determine whether the measures required in the plan are effective in controlling erosion and sedimentation. The Department of Community Development shall determine the content, the required number of reports and frequency for each project during the plan approval process upon recommendation of the plan review agency. Failure to submit the required reports will constitute a violation of the plan.

(c) If the Department of Community Development determines that the permittee has failed to comply with the plan, the Department of Community Development shall immediately serve a notice to comply upon the permittee, by registered or certified mail, to the address specified by the permittee in his permit application or by delivery at the site of the permitted activities to ~~the the agent or employees of the permittee supervising such activities, a notice to comply.~~ Such notice shall set forth specifically the measures needed to ~~comply come into compliance~~ with such plan and shall specify the time within which such measures shall be completed.

If the permittee fails to comply within the time specified in the notice to comply, the Department of Community Development ~~may will~~ take action to incur liability against the permit holder's performance bond, letter of credit, cash escrow, or other instrument to implement the needed conservation measures. Failure to implement the actions required in the notice to comply, shall be deemed to be a ~~in~~ violation of this section and, in addition the penalties specified in this section, may result in the revocation, ~~after due notice and hearing, of the permit, and plan approval.~~

208.9. / 11.9. Administrative appeal; judicial review.

(a) Any applicant under the provisions of this Ordinance who is aggrieved by any action ~~Final decisions~~ of the Department of Community Development in disapproving plans submitted or revoking any permit issued pursuant to this Ordinance, shall have the right to apply for and receive a review of such action ~~under this section shall be subject to review by the Program Administrator, Board of Supervisors,~~ provided an appeal is filed within thirty (30) days from the date of any such written decision. Any applicant who seeks an appeal hearing before the Program Administrator shall be heard within thirty (30) days from receiving a written request for such hearing. In reviewing the actions of the Department of Community Development, the Program Administrator shall consider evidence and opinions presented by the aggrieved applicant and the Department of Community Development. After considering the evidence and opinions, the Program Administrator may affirm, reverse or modify the action. The Program Administrator's decision shall be final, subject only to review by the Fauquier County Circuit Court as provided in (b) below. ~~by the Department of Community Development which adversely affects the rights, duties or privileges of the person engaging in or proposing to engage in land disturbing activities; provided, however, any permittee appealing a notice to comply shall take those corrective actions required in the notice to comply, which in the judgement of the administrator are necessary to protect against imminent danger of harmful erosion to land or sediment deposition in the watersheds of the commonwealth, with the time specified in the notice.~~

(b) Final decisions of the Program Administrator ~~Board of Supervisors~~ under this Ordinance ~~section~~ shall be subject to review by the Fauquier County Circuit Court ~~circuit court of the county~~, provided an appeal is filed within thirty (30) days from the date of the final written decision of the Program Administrator

~~board~~ which adversely affects the rights, duties or privileges of the person engaging in or proposing to engage in land-disturbing activities.

208.10. / 11.10. Penalties, injunctions and other legal actions.

(a) A violation of this ~~Ordinance~~~~section~~ shall be deemed a ~~C~~lass ~~1~~ misdemeanor.

(b) The Commonwealth's Attorney shall, upon request of the ~~Program Administrator or the~~ Department of Community Development, take legal action to enforce the provisions of this ~~Ordinance~~~~section~~.

(c) In addition to any criminal penalties provided under this Ordinance, any person who violates any provision of this Ordinance may be liable to Fauquier County in a civil action for damages.

(d) The ~~zoning~~ Program Administrator, or the owner of property which has sustained damage or which is in imminent danger of being damaged, may apply to the Fauquier County Circuit Court ~~circuit court of the county~~ for injunctive relief to enjoin a violation or a threatened violation of this ~~Ordinance~~~~section~~, without the necessity of showing that there does not exist an adequate remedy at law.

However, an owner of property shall not apply for injunctive relief unless (i) he has notified in writing the person who has violated this Ordinance, and the Department of Community Development, that a violation of this Ordinance has caused, or creates a probability of causing, damage to his property, and (ii) neither the person who has violated this Ordinance nor the Department of Community Development has taken corrective action within fifteen (15) days to eliminate the conditions which have caused, or create the probability of causing, damage to his property.

(e) Without limiting the remedies which may be obtained under this section, any person violating or failing, neglecting, or refusing to obey any injunction, mandamus or other remedy obtained pursuant to this section shall be subject, in the discretion of the Court, to a civil penalty not to exceed \$2,000 for each violation. A civil action for such violation or failure may be brought by the Fauquier County Board of Supervisors.

Any civil penalties assessed by the Court shall be paid into the treasury of Fauquier County.

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(f) Upon receipt of a sworn complaint of a violation of the Fauquier County Erosion and Sediment Control Ordinance either Section 208.4 or 208.8 from the Department of Community Development or the John Marshall Soil and Water Conservation District, the ~~county~~ Program Administrator may, in conjunction with or subsequent to a notice to comply as specified in Section 208.8, issue a stop work ~~an~~ order requiring that all or part of the land activities permitted on the site be stopped until the specified corrective measures have been taken. ~~or, If land disturbing activities have commenced without an approved plan as provided in Section 208.7, such order shall require~~ requiring that all land disturbing activities be stopped until an approved plan or any required permits are obtained.

Where the alleged noncompliance is causing or is in imminent danger of causing harmful erosion of lands or sediment deposition in the watersheds of the Commonwealth, or where the land disturbing activities have commenced without an approved plan or any required permits, such an order may be issued without regard to whether the owner or permittee has been issued a notice to comply ~~as specified in Section 208.8(b) above~~.

For permitted sites, the stop work ~~The~~ order shall be served by registered or certified mail to the address specified by the permittee in his permit application or by delivery at the site of the permitted activities to an agent or employee of the permittee supervising such activities. For activities that commenced without an approved plan, the stop work order shall be served by registered or certified mail to the address of the owner of the property as found in the tax records of Fauquier County or by delivery at the site of the activities to a person who is conducting or supervising the activities. in the same manner as a notice to comply, and ~~The stop work order~~ shall remain in effect for a period of seven (7) days from the date of service pending application by the enforcing authority or permit holder for appropriate relief to the Circuit Court of Fauquier County. Immediately upon receipt, this order shall be posted by the recipient at the main entrance to the site, or at the construction entrance if different. Failure to post the order shall be deemed a separate offense under this Ordinance.

~~If~~ the alleged violator has not obtained an approved plan or any required permits within seven days from the date of service of the first stop work order, the ~~Program county~~ Administrator may issue ~~an~~ a final stop work order to the owner requiring that all construction and other work on the site, other than corrective measures, be stopped until an approved plan and any required permits have been obtained. Such an order shall be served upon the owner by registered or certified mail to the address specified in the permit application or the land records of the locality in which the site is located. Immediately upon receipt, this order shall be posted by the recipient at the main entrance to the site, or at the construction entrance if different. Failure to post the order shall be deemed a separate offense under this Ordinance.

The owner may appeal the issuance of an order to the Fauquier County Circuit Court ~~circuit court of the jurisdiction wherein the violation was alleged to have occurred~~.

Any person violating or failing, neglecting or refusing to obey an order issued by the Program ~~county~~ Administrator may be compelled in a proceeding instituted in the Fauquier County Circuit Court ~~to obey same and to comply therewith circuit court of the jurisdiction wherein the violation was alleged to have occurred~~ by injunction, mandamus or other appropriate remedy. Upon completion and approval of corrective action by the Department of Community Development, or obtaining an approved plan or any required permits, the order shall be immediately lifted.

Nothing in this section shall prevent the Department of Community Development, Program Administrator or Fauquier County Board of Supervisors from taking any other action authorized by this Ordinance.

ZONING ORDINANCE TEXT AMENDMENT REGARDING FLOODPLAIN OVERLAY DISTRICTS

A public hearing was held to consider a proposed Zoning Ordinance Text Amendment to Article 4, Part 4, and Section 5-904 of the Fauquier County Zoning Ordinance, and Sections 15-300, and 3-323 pertaining to Floodplain Overlay Districts. Todd Benson, Assistant Zoning Administrator, summarized the proposed amendment. James Downey, Esq., Center District, representing Airlie Foundation, requested that action be delayed on this matter pending further study of the Ordinance pertaining to Reservoir Management Overlay Districts in order to ensure there are no inconsistencies between the two Ordinances. Kevin Carter, Center District, General Manager for Airlie Center, expressed concern that the proposed Floodplain Overlay District has some conflicts with what will potentially be the new Reservoir Overlay District, and he requested deferment until those conflicts can be resolved. No one else spoke. The public hearing was closed. Mr. Downey moved to delay action on the Zoning Ordinance Text Amendment regarding Floodplain Overlay Districts for up to 120 days. Mr. Atherton seconded and, following discussion, the vote for the motion was unanimous, as follows:

<i>Ayes:</i>	<i>Mr. Harry F. Atherton; Mr. Raymond E. Graham; Mr. William G. Downey; Mr. Richard W. Robison; Mr. Chester W. Stribling</i>
<i>Nays:</i>	<i>None</i>
<i>Absent During Vote:</i>	<i>None</i>
<i>Abstention:</i>	<i>None</i>

ZONING ORDINANCE TEXT AMENDMENT REGARDING ACCESSORY FAMILY DWELLING UNITS

A public hearing was held to consider a proposed Zoning Ordinance Text Amendment to Section 5-105 to change the square footage of Accessory Family Dwelling Units and establish permitted occupancy. Todd Benson, Assistant Zoning Administrator, summarized the proposed text amendment initiated by Lee and Donna Smith. Ines Huber, Lee District; Laura Kitchin, Marshall District; Jack LaMonica, AIA, Marshall District; David deGive; Marshall District; Karl Pittelkau, Center District; Kitty Smith, Marshall District; and, Jolly deGive, Marshall District, spoke in opposition to the proposed text amendment. Lee Smith, applicant, Cedar Run District, spoke in favor of the proposed text amendment. Chuck Medvitz, Scott District, urged the Board to consider conducting an in-depth impact analysis regarding affordable housing issues. No one else spoke. The public hearing was closed. Mr. Graham moved to postpone action on the Zoning Ordinance Text Amendment submitted by Lee and Donna Smith for up to 60 days, pending further review and refinement of the current Zoning Ordinance relating to Accessory Family Dwelling Units. Mr. Downey seconded and, following discussion, the vote for the motion was unanimous, as follows:

<i>Ayes:</i>	<i>Mr. Harry F. Atherton; Mr. Raymond E. Graham; Mr. William G. Downey; Mr. Richard W. Robison; Mr. Chester W. Stribling</i>
<i>Nays:</i>	<i>None</i>
<i>Absent During Vote:</i>	<i>None</i>
<i>Abstention:</i>	<i>None</i>

COMPREHENSIVE PLAN AMENDMENT REGARDING PIN 7839-44-7577-000

A public hearing was held to consider a proposed Comprehensive Plan Amendment to remove the "Village" designation in the Comprehensive Plan from PIN 7839-44-7577-000, owned by Thomas H. Thorpe and located in the Village of Bristersburg. This item was referred by the Board of Supervisors for Planning Commission action. Rick Carr, Director of Community Development, summarized the proposed amendment. Thomas Thorpe, applicant, requested favorable consideration of the proposal to remove the "Village" designation, as well as the granting of a conservation easement over approximately 31 acres of his property. No one else spoke. The public hearing was closed. Mr. Graham moved to adopt the following resolution. Mr. Robison seconded and, following discussion, the vote for the motion was unanimous, as follows:

<i>Ayes:</i>	<i>Mr. Harry F. Atherton; Mr. Raymond E. Graham; Mr. William G. Downey; Mr. Richard W. Robison; Mr. Chester W. Stribling</i>
<i>Nays:</i>	<i>None</i>
<i>Absent During Vote:</i>	<i>None</i>
<i>Abstention:</i>	<i>None</i>

RESOLUTION

A RESOLUTION TO APPROVE CPAM07-CR-002: REVISIONS TO BRISTERSBURG LAND USE PLAN, CEDAR RUN DISTRICT

WHEREAS, the Comprehensive Plan Amendment revises the boundaries of the Bristersburg Village Land Use Plan by changing the land use designation of approximately 90 acres of land from "Village" to "Rural Agriculture;" and

WHEREAS, on October 26, 2006, the Planning Commission unanimously recommended approval of this item to the Board of Supervisors; and

WHEREAS, on December 14, 2006, the Fauquier County Board of Supervisors conducted a public hearing on this item and considered written and oral testimony; now, therefore, be it

RESOLVED by the Fauquier County Board of Supervisors this 14th day of December 2006, That the Bristersburg Land Use Plan be, and is hereby, amended as reflected in Figure 2 of the staff report which does the following: changes the land use designation on approximately 90 acres of PIN 7839-44-7577 from "Village" to "Rural Agriculture," with approximately 33 acres of this property being zoned Village and the remaining acreage zoned Rural Agriculture; and, be it

RESOLVED FURTHER, That the southwestern boundary of the Bristersburg Village Plan, Fauquier County Comprehensive Plan be, and is hereby, amended.

A RESOLUTION TO AUTHORIZE THE ACCEPTANCE OF A CONSERVATION EASEMENT OVER THE PROPERTY OF THOMAS H. THORPE

Mr. Atherton returned to the table for consideration a resolution to authorize the acceptance of a conservation easement over the property of Thomas H. Thorpe, and moved to adopt the following resolution. Mr. Stribling seconded and, following discussion, the vote for the motion was unanimous, as follows:

Ayes: Mr. Harry F. Atherton; Mr. Raymond E. Graham; Mr. William G. Downey; Mr. Richard W. Robison; Mr. Chester W. Stribling
Nays: None
Absent During Vote: None
Abstention: None

RESOLUTION

A RESOLUTION TO AUTHORIZE THE ACCEPTANCE OF A CONSERVATION EASEMENT OVER THE PROPERTY OF THOMAS H. THORPE

WHEREAS, Thomas H. Thorpe has proposed to grant a conservation easement over approximately 31 acres of his property located at the edge of the Village of Bristersburg, also described as a portion of PIN #7839-44-7577; and

WHEREAS, the Board of Supervisors has determined that the proposed conservation easement is consistent with the Fauquier County Comprehensive Plan; and

WHEREAS, the Board of Supervisors has determined that the proposed conservation easement will promote the goals of the Fauquier County Comprehensive Plan by creating a “hard edge” at an edge of the Village of Bristersburg and will preserve prime agricultural land; now, therefore, be it

RESOLVED by the Fauquier County Board of Supervisors this 14th of December 2006, That the County Administrator and the County Attorney be, and are hereby, authorized to accept the donation of a conservation easement on a portion of the property of Thomas H. Thorpe.

SPECIAL EXCEPTION #SPEX06-CR-018 AND #SPEX06-CR-025 - ENGLE HOMES VIRGINIA, OWNER AND APPLICANT – THE ESTATES AT OLD MARSH

A public hearing was held to consider an application to obtain Special Exception approval under Categories 20 and 31 to allow for a community water system serving approximately 30 lots with an above-ground water facility. The property is located at 10529 Old Marsh Road (Route 837) south of Green Road (Route 674), Cedar Run District, further identified as PIN 6990-13-5554-000. Rick Carr, Director of Community Development, summarized the application. Joe Yeager, representing Engle Homes, requested favorable consideration of the application. No one else spoke. The public hearing was closed. Mr. Graham moved to adopt the following resolution. Mr. Stribling seconded and, following discussion, the vote for the motion was unanimous, as follows:

Ayes: *Mr. Harry F. Atherton; Mr. Raymond E. Graham; Mr. William G. Downey; Mr. Richard W. Robison; Mr. Chester W. Stribling*
Nays: *None*
Absent During Vote: *None*
Abstention: *None*

RESOLUTION

A RESOLUTION TO APPROVE SPEX06-CR-025: A CATEGORY 20 SPECIAL EXCEPTION TO CONSTRUCT AN ABOVE GROUND WATER FACILITY AND SPEX06-CR-018: A CATEGORY 31 SPECIAL EXCEPTION TO CONSTRUCT A COMMUNITY WELL SYSTEM

WHEREAS, Engle Homes Virginia, owner and Dewberry, applicant, are seeking Special Exception approval for construction of facilities for distribution, treatment and storage of water for a proposed subdivision; and

WHEREAS, the well facility (lot) and water system would be built by the applicant to WSA standards and then turned over to Fauquier County Water and Sanitation Authority (WSA) for ownership, operation and maintenance; and

WHEREAS, the applicant seeks to construct these facilities to provide water to serve thirty (30) lots within the proposed Estates at Old Marsh Subdivision; and

WHEREAS, the parcel is identified as PIN 6990-13-5554-000; and

WHEREAS, on July 27, 2006 and November 30, 2006, the Fauquier County Planning Commission held public hearings on the proposed Special Exceptions and recommended approval of the Category 20 application, subject to conditions; and

WHEREAS, the Category 31 Special Exception is not required since the WSA will take over this proposed system; and

WHEREAS, on December 14, 2006, the Board of Supervisors conducted a public hearing and considered written and oral testimony; and

WHEREAS, the Board of Supervisors has determined that the application satisfies the standards of Zoning Ordinance Articles 5-006 and 5-2000; now, therefore, be it

RESOLVED by the Fauquier County Board of Supervisors this 14th day of December 2006, That SPEX06-CR-025 be, and is hereby, approved, subject to the following conditions:

1. The Special Exception is granted for and runs with the land indicated in this application and is not transferable to other land.

2. This Special Exception is granted only for the purpose(s), structure(s) and/or uses indicated on the Special Exception Plat approved with the application, as qualified by these development conditions.
3. The development of the property shall be in general conformance with the Special Exception Plat entitled "Category 20 Special Exception Plat for Above Ground Facilities Associated With a Public Utility" dated June 16, 2006 and received in the Planning Office on June 15, 2006.
4. A Site Plan shall be required, pursuant to Article 12 of the Zoning Ordinance.
5. An on-site monitoring plan, to include the provision of dedicated monitoring wells; mitigation for the well (Robinson Sr.) adversely impacted during testing; change in the water demand assumption, per unit from 400 gpd to 500 gpd; and identification of contaminant threats within 5,000 feet of the two production wells shall be developed and submitted to Fauquier Water and Sanitation Authority (WSA) and the County for approval with first submittal of the Construction Plan.
6. The applicant shall submit approval from the owners of the Robinson Sr. well for any proposed mitigation measures prior to County approval of the Construction Plans.
7. The applicant shall design and construct the entire water system, including the wells, water lines, pumps, hydro-pneumatic tank and ground storage tank, in accordance with WSA standards and requirements so that it can be taken over by the WSA.
8. Specific design of the system will be addressed during the preparation of Construction Plans; the design shall be based on the design requirements of the WSA Community Water System Standard and the Virginia Department of Health's Waterworks Regulations.
9. Prior to approval of the Construction Plans/Site Plan, the applicant shall provide verification from WSA as to the agreement to accept the water system proposed with this plan.
10. The water storage tank and its infrastructure shall be located on a 100 foot by 100 foot lot dedicated to the WSA.
11. The applicant shall provide an access easement to the tank site and parking area to allow for access by WSA or other government agencies.
12. The maximum water storage tank height shall be thirty-three (33) feet.
13. The maximum storage capacity of the water storage tank shall be 122,000 gallons.
14. The tower storage facility shall be a silo style structure, as approved by WSA.
15. The tank color shall be determined by WSA.

16. The applicant shall maintain the existing mature tree buffer adjacent to the tank, as indicated on the Special Exception Plat.
17. There is to be no fill in the wetlands without a DEQ/COE permit.
18. All structures are to be above the 100-year water surface elevation of the adjacent creek.
19. No subsurface drainfield can be closer than 100 feet to the well. Additional separation would be preferable.
20. Only manual (non-automatic) drip irrigation systems shall be permitted. This language shall be included within the HOA documents and on the Final Plats for the Estates at Old Marsh Subdivision or any other subdivision that utilizes this system.

; and, be it

RESOLVED FURTHER, That the Board of Supervisors has determined that the application for the Category 31 Special Exception for a community well system is not required and, therefore, is not approved as part of this resolution.

With no further business, the meeting was adjourned at 8:38 P.M., to reconvene on January 4, 2007.

I hereby certify that this is a true and exact record of actions taken by the Fauquier County Board of Supervisors on December 14, 2006.

*Paul S. McCulla
Clerk to the Board of Supervisors*